

APPENDIX C
PUBLIC COMMENTS AND RESPONSES

APPENDIX C

PUBLIC COMMENTS AND RESPONSES

In April 2004, the U.S. Department of Energy's National Nuclear Security Administration Nevada Site Office (NNSA/NSO) published the *Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site* (DOE/EA-1494) and invited public comment on the document.

News releases were issued by NNSA/NSO to notify the public of both the start of the Environmental Assessment process and the availability of the draft Environmental Assessment. Fact sheets were mailed to interested individuals, special interest groups, and federal state and local officials. A total of 146 copies of the preapproval draft Environmental Assessment were distributed and

an electronic copy of the draft Environmental Assessment was posted on the NNSA/NSO web page (www.nv.doe.gov). NNSA/NSO received written comments from 31 individuals and organizations. NNSA/NV considered all comments in preparing this final Environmental Assessment.

This appendix provides the comments received and NNSA/NSO's responses. Written comments and their responses are summarized below. In this appendix, each written comment letter is reproduced, with individual comments, questions, and suggestions labeled; responses to them are provided on the pages that follow each comment letter. Table C-1 lists the comment letters and provides the letter numbers and commenter names.

Table C-1. Written Comments on the Preapproval Draft Environmental Assessment.

Comment Source Number*	Commenter	Page Number
L-1	Robert D. Williams, U.S. Department of the Interior, Fish and Wildlife Service	C-5
L-2	Michael J. Stafford, State of Nevada, Department of Administration, Nevada State Clearinghouse Coordinator	C-13
L-3	Alice M. Baldrice, State of Nevada, Department of Cultural Affairs, Nevada State Historic Preservation Office	C-17
L-4	Tim Hunt, State of Nevada, Water Resources	C-19
L-5	Joseph C. Strolin, State of Nevada, Office of the Governor, Agency for Nuclear Projects, Administrator, Planning	C-21
L-6	Don D. Canfield III, State of Nevada, Department of Conservation and Natural Resources, Division of State Lands	C-29
L-7	Allen Biaggi, State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection	C-32
L-8	Rep. Jackie Biskupski, House of Representatives, State of Utah	C-40
L-9	Jessica Sandler, People for the Ethical Treatment of Animals	C-42
L-10	John M. Fowler, Stoller-Navarro Joint Venture	C-44
L-11	David R. Gang, University of Arizona, Department of Plant Sciences and Institute for Biomedical Science and Biotechnology	C-46
L-12	Bonnie Adamsson Vorwaller (1), Individual	C-49
L-13	Bonnie Adamsson Vorwaller (2), Individual	C-56

Table C-1. Written Comments on the Preapproval Draft Environmental Assessment. (Continued)

Comment Source Number*	Commenter	Page Number
L-14	Robert K. Musil, Physicians for Social Responsibility	C-60
L-15	Susan K. Hand, Individual	C-63
L-16	Craig Axford and Laura Bonham, Utah Democratic Progressive Caucus	C-66
L-17	Mary Dickson, Individual	C-72
L-18	Russell M. Beesley, Individual	C-74
L-19	Tamara Berry, Individual	C-76
L-20	Thomas Forsythe, Individual	C-78
L-21	Jan Lovett, Individual	C-80
L-22	Edward J. Austin, Individual	C-82
L-23	Melissa D. Chesley, Individual	C-84
L-24	Elizabeth Sword, Children's Health Environmental Coalition	C-86
L-25	Donald B. Young, Individual	C-88
L-26	Patricia T. Austin, Individual	C-90
L-27	Katherine L. Young, Individual	C-92
L-28	Celeste Adamsson Vorwaller	C-94
L-29	Charles P.H. Scurich, Individual	C-96
L-30	Allen E. Wickman, Department of the Air Force, Nellis Air Force Base	C-99
L-31	Steve Erickson, Director, Citizens Education Project	C-104
L-32	Jennifer Kaufman, Individual	C-108
L-33	James R. Marble, Nye County Department of Natural Resources & Federal Facilities, Natural Resources Office	C-110

*Unique codes were given to each of the letters received. Individual comments are coded L-1-1, etc.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

FROM ESHD

(MON) 5.17'04 14:23/ST. 14:20/NO. 4860748639 P 8



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Nevada Fish and Wildlife Office
1340 Financial Boulevard, Suite 234
Reno, Nevada 89502
(775) 861-6300 ~ Fax: (775) 861-6301



May 14, 2004
File No. DOE 7

Mr. William C. Suiter, NEPA Document Manager
National Nuclear Security Administration
Nevada Site Office
Post Office Box 98518
Las Vegas, Nevada 89193

Dear Mr. Suiter:

Subject: Comments on the Preapproval Draft Environmental Assessment for
Activities Using Biological Simulants and Release of Chemicals at the
Nevada Test Site, Nye County, Nevada

This is in response to your request dated April 12, 2004, for comments on the Preapproval Draft Environmental Assessment (EA) for Activities Using Biological Simulants and Release of Chemicals at the Nevada Test Site (NTS). The NTS is managed by the U.S. Department of Energy, National Nuclear Security Administration (NNSA) and is located in Nye County, Nevada. The Fish and Wildlife Service (Service) understands that the proposed project or Alternative 1 in the EA would result in conducting tests and experiments involving the release of biological simulants and low concentrations of chemicals at the NTS. Release parameters for biological simulants would be developed and the existing chemical release parameters would be augmented to conduct the tests and training. The NTS provides a remote and secure setting, facilities, infrastructure and terrain to meet the need for more operational testing, contamination and decontamination testing, forensics testing, personal protective equipment testing, enclosed environment detection and decontamination training, and counter-terrorism training as they relate to biological or chemical agents.

There would be approximately 5 to 20 test series per year at a variety of locations and structures within the NTS, particularly Areas 5, 12, 16, and 25. Each test series could involve single or multiple releases of biological simulants or chemicals. It is estimated that each release would potentially impact less than one acre. The types of biological simulant or chemical release scenarios include: stack release, building/tunnel release, open pan/ground spill release, water-borne release, instantaneous release, ground transportation release and aircraft release. For the releases to proceed, certain release criteria would need to be met (Pages 2-6 to 2-11). Six biological species are proposed at this time as simulants for biological agents: *Bacillus subtilis* var. *niger*, *Bacillus thuringiensis*, *Clostridium sporogenes*, *Erwinia herbicola*, Bacteriophage

FROM ESHD

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MS2, and noninfectious (killed) influenza A virus. The specific types of chemicals to be released are not known at this time and could include simulants or the actual chemical of interest. The proposed project would be managed such that releases would occur in different areas to avoid multiple exposures to the flora and fauna in a specific area. Natural resources would be given sufficient time between biological and chemical releases to recover. The No Action alternative was evaluated in the EA, along with two other action alternatives. Alternative 2 would involve release of biological simulants only, and Alternative 3 would involve release of chemicals only.

Service comments are provided under the authorities of the National Environmental Policy Act of 1969, as amended, the Endangered Species Act of 1973, as amended (ESA), and the Migratory Bird Treaty Act of 1918, as amended (MBTA) (16 U.S.C. 703 et seq.). In general, we recognize the purpose of and need for the proposed project and NNSA customers' attraction to use the NTS for such testing.

1. **Impacts Analysis.** We recognize that some of the chemicals to be released at low concentrations throughout the NTS are not known at this time and any potential chemicals considered would result in an exhaustive list (Pages 2-1 and 2-2). However, it is difficult to determine any concerns the Service may have regarding potential project impacts to species, especially listed or sensitive species, if the specific chemicals or types of chemicals are not described in the EA.

L-1-1

Additionally, the EA lacks a detailed analysis of specific impacts that the proposed biological simulants or chemicals could have on plants and wildlife species. *Bacillus thuringiensis* is the only biological simulant for which toxicological or ecological impacts are detailed and referenced. To provide justification for the impacts analysis in the EA, past testing at NTS or another NNSA or military installations, and scientific literature and studies from universities and other government agencies, should be discussed or at least referenced in the EA for each biological simulant and chemical proposed for release. If specific details regarding impacts are unknown, it should be clearly stated in the EA.

L-1-2

2. **Release Criteria.** Most of the release criteria for both biological simulants and chemicals were developed to protect workers and the public. We recognize the importance of evaluating and setting these criteria and concentrations according to health and human safety regulations. Where possible, these criteria and concentrations should also be established or adjusted to avoid or minimize impacts to plant and wildlife species. The strategy to allow the NNSA to adjust the limits as new data becomes available, which could either lower or raise the allowable concentrations at the compliance boundary, is an important adaptive management tool that we support (Page 2-7). We recommend, though, that adjustments to the limits and concentrations also be made in consideration of environmental impacts because: a) impacts to natural resources from the proposed biological simulants and

L-1-3

FROM ESHD

(MON) 5.17' 04 14:24/ST. 14:20/NO. 4860748639 P 10

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chemicals may not be known until post-release monitoring; b) the specific chemicals to be released are unknown and not analyzed in detail in the EA; and, c) additional biological materials that are unknown at this time could also be included under this project in the future if the release concentrations and criteria are met (Page 2-5).

L-1-3

3. **Conservation Measures.** We recognize that certain conservation measures have been incorporated into the proposed project to avoid, minimize or mitigate for potential impacts to natural resources on the NTS. Specifically, we support the following:

- Test and training plans would be developed by NNSA customers with consideration of environmental impacts, including setup activities, test activities, chemical or biological release choices, cleanup activities, or other test and training activities. This process and planning would be managed by the NNSA. If it is determined that adverse impacts to the environment could occur, the test procedure or materials used must be altered or an appropriate mitigation strategy developed; otherwise, the approval of the release would be denied by the NNSA (Page 2-5).
- Releases would take advantage of existing facilities and infrastructure as release locations (Page 2-2), which is important to avoid or minimize new surface disturbance or damage to natural resources.
- No release would be permitted that would jeopardize human health and safety or result in a significant impact to the environment without approved mitigation (Page 2-6).
- Prior to a release, the proposed release site would be surveyed by qualified biologists to ensure that no species of special interest or sensitive habitat would be adversely affected (Pages 2-6 and 3-8).
- Sufficient time would be allowed between biological simulant and chemical tests conducted in the same area to permit the recovery of natural resources (Pages 2-7 and 2-11).
- The potential ecological impacts would be evaluated from each single release point and collectively from all release points. Additionally, if test series were to overlap geographically, the effects of all test series would be analyzed collectively (Page 2-4).
- A biological simulant or chemical release would not be approved if there was a reasonable potential for cumulative, long-term persistence in the environment, unless it could be demonstrated that the biological simulant or chemical would be completely contained, neutralized, or cleaned up at the conclusion of the test (Pages 2-6 and 2-11). The latter of this mitigation measure should only be authorized when it can be demonstrated that the containment, neutralization or clean-up could be accomplished without significant damage, meaning the natural resources would be able to recover or be

L-1-4

FROM ESHD

(MON) 5. 17' 04 14:24/ST. 14:20/NO. 4860748639 P 11

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restored. Any restoration or reclamation activities should be accomplished with native plant species (Page 3-10).

- Species of special interest include, but are not limited to, certain species of bats and burrowing owls. If these species were found inhabiting an area where they could be adversely impacted by a proposed release, mitigation measures would be developed to protect the animals or the release site would be moved to avoid impacts (Page 3-8).
- The NTS Ecological Monitoring and Compliance Program would be expanded to include monitoring and assessment of NTS ecological systems for impacts attributable to the proposed testing program. If adverse environmental impacts were identified, test activities in the area would be suspended until appropriate mitigation measures could be implemented (Page 4-1).

L-1-4

4. **Desert tortoise (*Gopherus agassizii*).** The Mojave population of the desert tortoise is listed as threatened under the ESA. As detailed in the EA, this threatened species occurs in low density throughout the southern one-third of the NTS. It is proposed to have pre-test surveys conducted by qualified biologists to ensure that no desert tortoises were present in the release location, and if desert tortoises were present, they would be relocated to an area of suitable habitat outside of the potential impact area (Page 3-8). Even if all desert tortoises could be located in a specific release area, relocating individuals may not be the best option for the species, depending on the details of the test series and releases. Temporarily removing desert tortoises from the location and later returning the individuals might provide less overall effects to the species and the population of desert tortoises on the NTS and in adjacent areas.

L-1-5

Secondly, the EA states that the desert tortoise would not be adversely affected by any release (Page ES-4). Based on the limited information contained in the EA regarding specific effects that could occur to individual desert tortoises or their habitat, we are uncertain that an accurate effects determination can be made at this time. Additionally, moving desert tortoises under the proposed project would constitute *take* of this listed species, as defined under the ESA. The project as proposed and analyzed would require consultation under section 7(c) of the ESA. We recommend you contact us to discuss the project in more detail, so that we may assist you in formulating measures to avoid, minimize and/or compensate for any project effects to the desert tortoise.

L-1-6

5. **Migratory birds.** Based on the Service's conservation responsibilities and management authority for migratory birds under the MBTA, we are concerned about potential impacts the proposed project may have on migratory birds. Under the MBTA, migratory birds may not be killed, and nests (nests with eggs or young) of migratory birds may not be harmed. The potential exists for direct mortality to migratory birds due to exposure to concentrated levels of the biological simulants or chemicals that are released at the various test locations. The potential also exists for indirect effects to migratory birds if releases move beyond the test

L-1-7

FROM ESHD

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location into adjacent areas where migratory birds may be present. Additionally, we are concerned that migratory birds may be indirectly killed or harmed if the proposed biological simulant and chemical releases affect their prey base (insects, rodents, plants, etc.). If migratory birds consume a number of affected prey, biological simulants and chemicals may accumulate in their systems and lead to their mortality or injury.

L-1-7

Additionally, we understand that no chemical releases would be made to water resources on the NTS as part of the proposed project. Biological simulants could be released into an existing man-made ditch; however, it is proposed that most releases would be to lined sewage lagoons or ponds (Page 3-4). We recommend that biological simulant testing directly in or adjacent to naturally occurring springs, arroyos, playas or ephemeral lakes on the NTS should not be allowed or approved in order to protect the integrity and biological functions of these systems. Furthermore, biological simulant and chemical releases should be avoided near any water resources (natural or man-made) that contain breeding or nesting migratory birds. Depending on the details of the release and test series, a buffer zone of at least 100 feet (30 meters) should be maintained around these water resources during breeding season.

L-1-8

Finally, the locations of burrowing owls and burrow locations are well studied and monitored on the NTS. To protect this sensitive and protected species, we recommend a 200 foot (60 meter) buffer be established around any occupied burrowing owl burrows, especially during breeding season. This buffer is based on flushing distance data collected during burrowing owl monitoring studies at the NTS.¹

L-1-9

6. **Desert National Wildlife Range.** The eastern boundary of the NTS is adjacent to the Desert National Wildlife Range (DNWR). To protect the sensitive species and natural resources on the adjacent DNWR lands, the proposed test series and releases should be located a sufficient distance from the DNWR boundary to avoid exposure of these lands to the biological simulants and chemicals. This should include provisions to protect the DNWR from dispersal of biological simulants via suspended aerosols. For health and human safety issues, any biological simulant or chemical releases at the HAZMAT Spill Center should be coordinated with the Refuge Manager of the DNWR at (702) 879-6110 as part of the preparation phase as described in the EA.

L-1-10

¹ Hall, D.B., P.D. Greger, A.V. Cushman, and C.A. Wills. 2003. Ecology of the Western Burrowing Owl on the Nevada Test Site. Prepared by Bechtel Nevada Ecological Services for the Department of Energy, National Nuclear Security Administration, Nevada Site Office, Las Vegas, NV.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

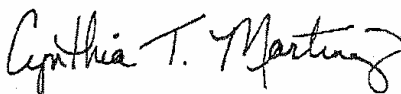
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Mr. William C. Suiter

File No. DOE 7

We appreciate the opportunity to comment on the proposed project. If you have any questions regarding this correspondence, please contact Amy LaVoie in our Southern Nevada Field Office at (702) 515-5230.

Sincerely,



for Robert D. Williams
Field Supervisor

cc:

Project Leader, Desert National Wildlife Refuge Complex, U.S. Fish and Wildlife Service,
Las Vegas, Nevada

Refuge Manager, Desert National Wildlife Range, U.S. Fish and Wildlife Service,
Las Vegas, Nevada

Response to comment L-1-1: The EA indicates that the allowable concentration for a specific chemical will be determined on a case-by-case basis for each test. This determination will be based on the chemical toxicity and test constraints (e.g., wind direction, wind speed, etc.). The concentration will be chosen so that the specified exclusion zone, identified in this EA, can be maintained. This exclusion zone will be surveyed for sensitive or endangered species for each specific test. This exclusion zone will also be maintained to be protective of human health during the tests. This approach is protective of potential adverse impacts to human health and the environment outside the exclusion zone and off the NTS by enforcing a compliance boundary at the edge of the exclusion zone.

It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-1-2: The biological simulants chosen for potential release under the proposed actions were specifically chosen based on the current understanding of their low potential for adverse impacts to human health and the environment as stated in the EA.

Response to comment L-1-3: It was intended that these evaluations would include consideration of impacts to the environment as well as potential human health impacts.

Response to comment L-1-4: This comment is noted and will be considered by NNSA in evaluating the subject Environmental Assessment (EA) to determine if a Finding of No Significant Impact (FONSI) can be issued, if the no-action alternative will be chosen, or if an Environmental Impact Statement will be required to evaluate the proposed actions.

Response to comment L-1-5: A Biological Opinion issued in 1996 by the U.S. Fish and Wildlife Service for NTS activities (File No. 1-5-96-F-33) describes procedures for protecting the desert tortoise during activities conducted by NNSA/NSO. The second paragraph of Section 3.2.7.1 has been revised to state that activities associated with releases of chemicals and biological simulants will be conducted in accordance with the 1996 or subsequent Biological Opinions, and states that if pre-activity surveys determine that desert tortoises occur in the release area, appropriate mitigation measures will be implemented in compliance with the Biological Opinion.

Response to comment L-1-6: As requested, NTS representatives have contacted the U.S. Fish and Wildlife Service to discuss concerns regarding the desert tortoise. Also, see the response to L-1-5. Section 3.2.7.1 has been revised so that tortoise relocation is not mentioned, and instead states that mitigation activities will be in accordance with a Biological Opinion issued by the U.S. Fish and Wildlife Service.

Response to comment L-1-7: Releases of chemicals or biological simulants during breeding season would be preceded by pre-activity surveys to search for active bird nests. The text in Section 3.2.7.1 has been revised to state that releases will not be conducted in areas where active nests are located. Regarding the concern that chemicals or biological simulants might reduce the abundance of food items (e.g., insects, rodents, plants) of birds, the proposed releases are expected to impact small areas and any given area would typically not be exposed to multiple releases (see third paragraph of Section 3.2.7.1). Thus, potential impacts due to reduced prey populations would be expected to be negligible. For tests that would include the release of chemicals or biological simulants that could persist in the environment for more than a few weeks, a remediation plan would be developed and implemented in coordination with the U.S. Fish and Wildlife Service.

Response to comment L-1-8: The second paragraph of Section 3.2.4.2 has been revised as

requested to state that there will be no releases to naturally occurring springs, arroyos, playas, or ephemeral lakes; pre-activity surveys will be conducted to search for nesting birds; and there will be no releases of chemicals or biological simulants within 30 meters (100 feet) of any water resources that contain nesting birds.

Response to comment L-1-9: The third paragraph of Section 3.2.7.1 has been revised to state that a 60-meter (200 foot) buffer would be established around occupied burrows of the burrowing owl, and there would be no releases within this buffer during breeding season.

Response to comment L-1-10: The boundary of the DNWR is not adjacent to the NTS, but is located almost two-miles east of the NTS boundary. The portions of DNWR that could be affected by a release from the HAZMAT Spill Center are managed as joint use lands with the U.S. Air Force (USAF), Nevada Test and Training Range. Access into those areas is controlled by the USAF. Currently, NNSA/NSO coordinates with the USAF prior to conducting any releases at the HAZMAT Spill Center. NNSA/NSO concurs that additional coordination to include DNWR is reasonable and will initiate consultation with DNWR to establish appropriate coordination procedures.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

MAY-17-2004 15:43

P.02

KENNY C. GUINN
Governor

STATE OF NEVADA

JOHN P. COMEAUX
Director

DEPARTMENT OF ADMINISTRATION

209 E. Musser Street, Room 200

Carson City, Nevada 89701-4298

Fax (775) 684-0260

(775) 684-0209

May 17, 2004

William C. Suiter, NEPA Document Manager
National Nuclear Security Administration
P.O. Box 98518
Las Vegas, Nevada 89193

Re: SAI NV # E2004-167
Project: Draft Environmental Assessment (EA) for Activities Using Biological Simulants
and Releases of Chemicals at the Nevada Test Site

Dear Mr. Suiter:

Our State agencies raise serious issue including:

- | | |
|---|-------|
| a. All testing activities and authorized release boundaries should be limited to encompass only the HAZMAT Spill Center located at Area 5 of the NTS. | L-2-1 |
| b. Nevada Division of Environmental Protection (NDEP) should be involved early on in the pre test evaluation activities. | L-2-2 |
| c. State agencies should be involved in project monitoring and mitigation procedures. | L-2-3 |
| d. The promised Joint State/DOE Project Advisory Committee should be established soon. | L-2-4 |
| e. DOE should comply with the National Historic Preservation Act of 1966. | L-2-5 |
| f. NNSA/NSO should select one model that will be used for all releases conducted at the NTS. | L-2-6 |
| g. Nevada Revised Statutes NRS 534.103 and Nevada Administrative Code NAC 534.315 require water permits. | L-2-7 |

Enclosed are the comments from the Nevada Division of State Lands, Nevada Division of Water Resources, Nevada State Historic Preservation Office, Nevada Division of Environmental Protection and the Nevada Agency for Nuclear Projects regarding the above referenced document. These comments constitute the State Clearinghouse review of this proposal as per Executive Order 12372.

Please address these comments or concerns in your final decision. If you have questions, please contact me at (775) 684-0209.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

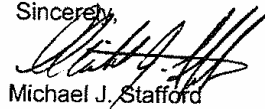
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MAY-17-2004 15:43

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Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Stafford", is written over the printed name.

Michael J. Stafford
Nevada State Clearinghouse Coordinator/SPOC

Enclosure

Response to comment L-2-1: There is a national need to perform low concentration releases of chemicals beyond the types of chemical testing currently done in Area 5. This national need is detailed in the Purpose and Need statement of this EA. There is also a national need to perform testing with biological simulants. This EA was prepared to evaluate the proposed actions to meet these stated needs. This document will be used by NNSA to evaluate the potential impacts to human health and the environment.

Response to comment L-2-2: Currently, prior to any release of chemicals at the HAZMAT Spill Center, NNSA/NSO provides notification and a Test Management Plan Summary to the Nevada Bureau of Air Pollution Control (BAPC), pursuant to the NTS Air Quality Operating Permit. In addition, a post-test report is provided to BAPC.

Response to comment L-2-3: NNSA/NSO will coordinate with NDEP to identify reasonable opportunities for involvement in project monitoring and mitigation procedures.

Response to comment L-2-4: While there is no promise of a joint Project Advisory Committee, NNSA/NSO is evaluating a possible project liaison role in test planning for both the State and Nye County.

Response to comment L-2-5: The EA explains how the proposed activities will comply with the National Historic Preservation Act of 1996. Section 3.2.3.2 explains that the Nevada State Historic Preservation Officer and the Advisory Council on Historic Preservation will be consulted regarding any potential impacts to significant cultural resources. Also, Table 4-1 in Chapter 4 states that in the planning phase for any test activities, cultural resource inventories and subsequent consultation with the Nevada State Historic Preservation Officer will occur.

Response to comment L-2-6: Models which are appropriate for the proposed test are selected and run by the test sponsor. This selection is reviewed separately by BN, NNSA, and by external experts on the Project Advisory Panel. These independent reviewers may run other models to verify the submitted model results. It would not be appropriate to limit model selection because of the variety of releases that need to be modeled. Limited model selections could result in an inappropriate model being used to evaluate proposed releases.

Response to comment L-2-7: As noted in the 1996 NTS EIS and noted by the state in their letter dated May 3, 1996 in Comment #091, "under the Federal Water Rights Doctrine, the NTS is entitled to withdraw water necessary to support the NTS missions."

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

Department of Administration
Budget and Planning Division
209 East Musser Street., Room 200
Carson City, Nevada 89701-4298
(775) 684-0209
Fax (775) 684-0260

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APR 19 2004

State Historic
Preservation Office

TE: April 15, 2004

Governor's Office
Agency for Nuclear Projects
Energy Office
Agriculture Department
Minerals Commission
UNR Bureau of Mines
Economic Development
Tourism
Fire Marshal
Human Resources
Health Division
Indian Commission
Colorado River Commission
Animal Damage Control

Legislative Counsel Bureau
PUC
Transportation (General)
Transportation (Airspace)
Office of Traffic Safety
UNR Library
UNLV Library
Historic Preservation
Emergency Management
Office of the Attorney General
Washington Office
Nevada Assoc. of Counties
Nevada League of Cities
Public Safety

Conservation & Natural Resources -
Director's Office
State Lands
Environmental Protection
Forestry
Conservation Districts
State Parks
Water Resources
Natural Heritage Program
Wild Horse Commission
Wildlife Department - Director's Office
Region 1 - Fallon
Region 2 - Elko
Region 3 - Las Vegas

Nevada SAI # E2004-167

Subject: Draft EA Activities using Biological Simulants and Releases of Chemicals at the Nevada Test Site

Yes No Send more information on this project as it becomes available

HEARINGHOUSE NOTES: Also Reference E2004-125

Enclosed, for your review and comment, is a copy of the above-mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than **May 10, 2004**. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Michael Stafford, Clearinghouse Coordinator, (775) 684-0209 or mstafford@budget.state.nv.us.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

☐ No comment on this project
☐ Proposal supported as written
☒ Additional information below
☐ Conference desired (See below)
☐ Conditional support (See below)
☐ Disapproval (Explain below)

AGENCY COMMENTS:

Please refer to attached memorandum.

RECEIVED

MAY 10 2004

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION



ALICE M. BALDRICE, Deputy State Historic Preservation Office

5/6/04

Signature

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Agency

Date

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALSKENNY C. GUINN
GovernorSCOTT K. SISCO
Interim DirectorSTATE OF NEVADA
DEPARTMENT OF CULTURAL AFFAIRS
Nevada State Historic Preservation Office
100 N. Stewart Street
Carson City, Nevada 89701RONALD M. JAMES
State Historic Preservation Officer

May 6, 2004

MEMORANDUM

TO: Nevada State Clearinghouse

FROM: Alice M. Baldrica, Deputy SHPO *Alice M. Baldrica*

SUBJECT: Draft EA Activities using Biological Simulants and Releases of Chemicals at the Nevada Test Site, NV SAI# E2004-167

The Nevada State Historic Preservation Office has reviewed the draft EA. The proposed activities are federal undertakings that have the potential to affect historic properties located on the Nevada Test Site. Under the National Historic Preservation Act of 1966, the Department of Energy must consider the effects of its undertakings on properties listed on or considered eligible for listing in the National Register of Historic Places. The draft environmental assessment needs to be more specific on the steps DOE will take to identify and treat historic properties in project areas as per 36 CFR 800. Will contractors or other federal agencies be responsible for employing archaeologists to assist them in the process of consultation with the Nevada SHPO and affected tribes? Or will DOE assume responsibility for consulting under Section 106 of the Act?

L-3-1

DOE needs to inform SHPO whether it intends to follow the procedures for 36 CFR 800 or develop a programmatic agreement that would provide an alternative means of satisfying its obligations under the Act. At the present time, the draft EA does not adequately address how DOE will identify and treat historic properties or how it will consult with SHPO and other interested parties.

L-3-2

If you have questions regarding what is needed please call me at 775-684-3444 or e-mail me at ambaldri@clan.lib.nv.us

L 84

Response to comment L-3-1: The EA explains how the proposed activities will comply with the National Historic Preservation Act of 1996. Section 3.2.3.2 explains that the Nevada State Historic Preservation Officer and the Advisory Council on Historic Preservation will be consulted regarding any potential impacts to significant cultural resources. Also, Table 4-1 in Chapter 4 states that in the planning phase for any test activities, cultural resource inventories and subsequent consultation with the Nevada State Historic Preservation Officer will occur. Text has been added to Section 3.2.3.2 to clarify that the NNSA/NSO is aware of its responsibilities to comply with the National

Historic Preservation Act for the proposed activities. However, because specific activities are not planned at this time, specific measures to implement the compliance are not presented in the EA.

Response to comment L-3-2: Currently, NNSA/NSO plans to comply with the National Historic Preservation Act and 36 CFR Part 800 on a project-by-project basis. However, NNSA/NSO may at a later date determine that a Programmatic Agreement defining specific compliance activities may be necessary. At that time, NNSA/NSO will consult with the Nevada SHPO and the Advisory Council on Historic Preservation to prepare a PA.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

NEVADA STATE CLEARINGHOUSE

Department of Administration
Budget and Planning Division
209 East Musser Street, Room 200
Carson City, Nevada 89701-4298
(775) 684-0209
Fax (775) 684-0260

DATE: April 15, 2004

Governor's Office
Agency for Nuclear Projects
Energy Office
Agriculture Department
Minerals Commission
UNR Bureau of Mines
Economic Development
Tourism
Fire Marshal
Human Resources
Health Division
Indian Commission
Colorado River Commission
Animal Damage Control

Legislative Counsel Bureau
PUC
Transportation (General)
Transportation (Airspace)
Office of Traffic Safety
UNR Library
UNLV Library
Historic Preservation
Emergency Management
Office of the Attorney General
Washington Office
Nevada Assoc. of Counties
Nevada League of Cities
Public Safety

Conservation & Natural Resources
Director's Office
State Lands
Environmental Protection
Forestry
Conservation Districts
State Parks
Water Resources
Natural Heritage Program
Wild Horse Commission
Wildlife Department - Director's Office
Region 1 - Fallon
Region 2 - Elko
Region 3 - Las Vegas

Nevada SAI # E2004-167

Project: Draft EA Activities using Biological Simulants and Releases of Chemicals at the Nevada Test Site

Yes No Send more information on this project as it becomes available

CLEARINGHOUSE NOTES: Also Reference E2004-125

Enclosed, for your review and comment, is a copy of the above-mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than **May 10, 2004**. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Michael Stafford, Clearinghouse Coordinator, (775) 684-0209 or mstafford@budget.state.nv.us.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

☐ No comment on this project
☐ Proposal supported as written
☐ Additional information below

☐ Conference desired (See below)
☐ Conditional support (See below)
☐ Disapproval (Explain below)

RECEIVED


MAY 03 2004

DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

AGENCY COMMENTS:

Any use of ground water or surface water other than domestic use as defined by Nevada Revised Statute (NRS) § 534.013 and Nevada Administrative code (NAC) § 534.315 will require the appropriate permits pursuant to NRS 533 and 534 inclusive.

L-4-1

Signature 
s:\sharda\clear\clear.doc
Tim Hunt

WATER RESOURCES
Agency

04-29-04
Date

Response to comment L-4-1: As noted in the 1996 NTS EIS and noted by the state in their letter dated May 3, 1996 in Comment #091,

“under the Federal Water Rights Doctrine, the NTS is entitled to withdraw water necessary to support the NTS missions.”

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

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P.15

KENNY C. GUINN
Governor

STATE OF NEVADA

ROBERT R. LOUX
Executive DirectorOFFICE OF THE GOVERNOR
AGENCY FOR NUCLEAR PROJECTS

1761 E. College Parkway, Suite 118

Carson City, Nevada 89706

Telephone: (775) 687-3744 • Fax: (775) 687-5277

E-mail: nwpo@nuc.state.nv.us

M E M O R A N D U M

TO: Mike Stafford, Coordinator
Nevada State Clearinghouse

FROM: Joseph C. Strolin, Administrator
Planning Division

DATE: May 5, 2004

SUBJECT: *Nevada Agency for Nuclear Projects' Comments on DOE/NNSA's
Preapproval Draft EA for Using Biological Simulants and Releases of
Chemicals at the Nevada Test Site (Nevada SAI # E2004-167)*

The Nevada Agency for Nuclear Projects offers the following for inclusion in the Clearinghouse's comments on the above-reference EA:

- (1) The analysis of cumulative impacts in the preapproval Draft EA is inadequate. We note that simultaneous with the release of the Draft EA for using biological simulants and releases of chemicals at NTS, DOE/NNSA also is seeking comments on a project involving the use of radiological/nuclear materials at NTS as part of a "countermeasures test and evaluation complex" (ref. the April 6, 2004 "Notice of Intention to Prepare an Environmental Assessment for a Radiological/Nuclear Countermeasures Test and Evaluation Complex" at NTS). Yet, the preapproval Draft EA makes no mention of the radiological/nuclear countermeasures project, nor does it examine possible cumulative or synergistic impacts.

L-5-1

Likewise, the Draft EA fails to examine possible cumulative impacts from DOE's ongoing low-level radiological waste (LLW), mixed LLW and hazard waste, and transuranic waste activities at NTS. Thousands of shipments of waste come into NTS each year. The Draft

L-5-2

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- | | |
|---|---------------------------|
| <p>EA should assess any potential health or safety impacts to DOE LLW or truwaste workers, drivers, inspection personnel, etc. from chemical and/or biological releases under the proposed action or impacts to these other DOE programs caused by planned or unplanned releases under the proposed action (i.e., work stoppages, evacuations, etc.).</p> | <p>L-5-2</p> |
| <p>If DOE adheres to its published schedule and overcomes State of Nevada opposition to the proposed Yucca Mountain repository program, large numbers of workers and others involved with the construction of that project will be working and traveling on NTS regularly. Likewise, starting in 2010 (according to DOE's schedule), large numbers of spent fuel and high-level waste shipments could start arriving at the repository. The Draft EA should examine possible impacts of the proposed action on Yucca Mountain workers, drivers, inspectors, and others involved with that project. For example, could there be harmful health effects to individuals who are repeatedly exposed to the chemicals and/or biological agents planned under the proposed action? The EA should examine meteorological conditions that could cause such exposures and assess any short or long-term consequences.</p> | <p>L-5-3</p> |
| <p>(2) The type of project contemplated (i.e., the planned releases of chemical and biological agents into the environment) has the potential, especially in Nevada, to evoke considerable public concern, given the past history of contamination from the nuclear weapons testing program, DOE's track record nationwide of environmental degradation, and human and environmental contamination at almost every DOE nuclear facility.</p> <p>Since DOE has not widely noticed or distributed the Draft EA, additional efforts must be made to inform the public about the proposal and provide opportunities for comment. DOE should immediately schedule public meetings in Las Vegas, Nye County and in one or more "downwind" communities in Nevada (and possibly Utah). Meeting dates, times and places plus the addresses for making written comments should be well publicized so as to maximize public awareness and participation.</p> | <p>L-5-4</p> |
| <p>(3) The Draft EA should have addressed whether the proposed action is consistent with the purpose for which Congress withdrew the land for the Nevada Test Site (i.e., atomic weapons testing-related activities). Under the terms of the negotiated settlement of the State of Nevada's lawsuit challenging the Nevada Test Site EIS, DOE was to have consulted with the Bureau of Land Management regarding the status of the land withdrawal and consistency of various NTS activities with the mission of the NTS as specified in the land withdrawal legislation. To date, State officials are not aware that such consultation has taken place or of any plans for resolving the issue.</p> <p>A related issue that must be addressed in the EA is whether the proposed action is consistent with any of the actions contemplated by and assessed in the Nevada Test Site EIS.</p> | <p>L-5-5</p> <p>L-5-6</p> |

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|--|---------------------------|
| <p>(4) In Chapter 5.0 (Statutes, Regulations, Consultations, and Other Requirements), no mention is made of consultations with the Federal Drug Administration, the Department of Agriculture, the Environmental Protection Agency or the Centers for Disease Control regarding the biological agents proposed for use under the proposed action. Given the fact that biological aerosols and "simulants" will be dispersed into the environment, potentially exposing flora, fauna, and humans to such agents, it would seem appropriate to require DOE to involve the federal agencies responsible for regulating biological materials and for protecting public health and the environment. In addition, there is no indication in the Draft EA that the Department of Homeland Security has been consulted with respect to the proposed action. Since, presumably, the purpose of the biological and chemical releases is to help better prepare responders and others to deal with biological and chemical threats, the Department of Homeland Security should be a key agency involved with the planning and oversight of the proposed action.</p> | <p>L-5-7</p> <p>L-5-8</p> |
| <p>(5) The Draft EA contains no discussion of possible impacts of terrorism and sabotage on the activities contemplated in the proposed action. Are the chemicals and biological agents to be used in any way potential targets for terrorist action? What precautions are planned for securing the material while being transported to the NTS? What are the potential impacts/consequences of a successful terrorist attack on a shipment of the various chemicals/biological enroute to NTS (i.e., release of the material in a large metropolitan area along a shipping route, not just in Nevada but in the largest city along the transportation route)? The Draft EA should contain a section that address possible terrorism/sabotage impacts, both at NTS and during transportation to NTS.</p> | <p>L-5-9</p> |
| <p>(6) On page ES-4 of the Draft EA, under the section titled "Human Health and Safety," the statement is made that "the health and safety of NTS workers is protected by adherence to the requirements of federal and state law, DOE orders, and the plans and procedures of each organization performing work on the NTS." Given DOE's past history of worker and public contamination and resulting health consequences, such an assurance ring hollow. In Nevada, just in the past few months, we have had a situation where, despite strict federal and state regulations, DOE orders, the plans and procedures of organizations working for DOE, and a thorough scientific and industry understanding of how to prevent health consequences, Yucca Mountain tunnel workers were exposed to potentially deadly levels of silicon dust and other dangerous minerals from tunneling operations. The situation occurred because DOE and its contractors <i>ignored</i> regulations and established health protective procedures for reasons of cost and schedule. Simply stating that health and safety will be protected because the regulations say so is meaningless in the absence of a commitment to enforcing those regulations and in light of DOE's historical and even recent track record in this regard. The EA should examine the use of a truly independent oversight entity, autonomous from DOE, that would continually review activities under the proposed action, assure that health and safety requirements are, in fact, being adhered to, and have the authority to take effective action in the event DOE does not adhere to practices that are protective of worker and public health and safety.</p> | <p>L-5-10</p> |

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- (7) The EA should also contain an analysis and explication of the jurisdiction and roles of State of Nevada agencies with respect to the proposed action (i.e., the State Health Division, the Division of Environmental Protection, the Division of Emergency Management, the Nevada Department of Public Safety, and other potentially involved/affected agencies) and assess any impacts to State agencies as a result of the proposed project.
- (8) Because of the insufficient public notice regarding the availability of the Draft EA and the lack of broad solicitation of public comment, we strongly recommend that DOE extend the deadline for the comment period, schedule additional public meetings as discussed above, and widely publicize the availability of the document, the comment period and the meetings.

L-5-11

L-5-12

Thank you for the opportunity to comment on the predecisional Draft EA. If you have questions regarding the Agency for Nuclear Projects' comments, please contact me or Bob Loux, Executive Director, at 775-687-3744.

JCS/js

Response to comment L-5-1: The Radiological/Nuclear Countermeasures Test and Evaluation Complex (Rad/NucCTEC) EA was announced during the final stages of the development of the Preapproval Draft Environmental Assessment for Activities using Biological Simulants and Releases of Chemicals. Information on the Rad/NucCTEC EA was not available for inclusion in this Preapproval Draft EA. The purpose of the proposed Rad/NucCTEC project would be to conduct a wide variety of testing and evaluation activities related to combating terrorism. Specifically, the Rad/NucCTEC project would encompass:

- Prototype detector testing and evaluation
- Systems testing and evaluation
- Performance standards validation
- Demonstration of prototype detectors, systems and performance standards
- Verified threat demonstration
- Concept of operations evaluation and verification
- Training

Preliminary analysis of the Rad/NucCTEC project impacts indicates the primary impact to be the disturbance of 50 to 100 acres of undisturbed land situated within the range of the desert tortoise. The Preapproval Draft Environmental Assessment for Activities using Biological Simulants and Releases of Chemicals has also identified potential impacts to desert tortoise habitat. Biological surveys and monitoring for the desert tortoise would be performed as specified in the existing Final Programmatic Biological Opinion for Nevada Test Site Activities (Opinion) issued to NNSA/NSO by the U.S. Fish and Wildlife Service (File No. 1-5-96-F-33). The proposed Rad/NucCTEC project may destroy up to 100 acres of tortoise habitat, but this amount is well within the allowance of land disturbance permitted under the Opinion. All mitigation

actions prescribed under the Opinion would be followed to ensure that the project will not adversely impact the population of desert tortoises in the region. Pursuant to the Biological Opinion for the NTS, it would be necessary to compensate for the loss of desert tortoise habitat, either through payment for acres disturbed, or by revegetating an equal amount of disturbed tortoise habitat elsewhere on the NTS. Some of that impact would be offset by reclamation of a like area of previously disturbed land within desert tortoise habitat on the NTS. The NTS includes approximately 1,375 square miles (880,000 acres). As of 1996 the total amount of land disturbed on the NTS was approximately 60,000 acres. This represents less than one per cent of the total NTS area.

Other potential impacts identified for the Rad/NucCTEC project include:

- Some potential impacts to local populations of plants and wildlife, primarily due to displacement.
- An increase of approximately 15-20 one-way vehicle trips daily, generated by workers employed at the Rad/NucCTEC. However, because employment at the NTS has decreased to about one-half the level reported in 1993, there would be no noticeable impact to traffic or transportation on public highways or on the NTS.
- Additional waste streams resulting from operation of the Rad/NucCTEC would represent a very minor increase in waste volumes currently generated at the NTS. There would be little cumulative impact from the generation of these wastes.

The Final Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals has been modified to include cumulative effects of the Rad/NucCTEC project summarized here.

Response to comment L-5-2: The comment raises two concerns: (1) the need for the EA to

assess any potential health or safety impacts to workers including drivers and inspection personnel handling LLW and TRU waste shipped into NTS from offsite generators and (2) the need to analyze impacts to the ongoing disposal activities of these offsite-generated wastes caused by planned or unplanned work stoppages or evacuations associated with release events.

With regard to the first concern, Section 3.2.9, Human Health, discusses the assessment of health impacts to involved and non-involved workers, and the general public. The waste workers of concern to the commenter would be considered non-involved workers. The assessment concluded that during the tests, administrative and access controls and area monitoring would prevent exposures to involved and non-involved workers and the general public. Moreover, this section also explains that NNSA requires visitors to NTS, which would include non-NTS workers involved with shipments or inspections of offsite-generated waste, to meet the same safety and health requirements as NTS workers such as safety briefing and issuance of personal protective equipment.

With regard to the second concern, the need for the proposed action and how it compliments NNSA's mission is presented in Chapter 1. The purpose of this EA is to analyze impacts to the environment, human health, and the surrounding community and not impacts to other NTS missions. However, impacts to other NTS missions are not expected. As stated in Section 2.1, NNSA anticipates approximately 5 to 20 release events per year. It would be unlikely that all of these would be conducted in the same vicinity. Therefore, repeated disruption of other NTS missions including radioactive disposal activities ongoing at specific locations within NTS would also be unlikely. Making disruptions to waste disposal activities even more unlikely is the restriction that release sites in areas with radioactive contamination would be avoided due to environmental impact reasons (see Section 3.2.12.2 and Table 4-1).

Response to comment L-5-3: As stated in the EA, an exclusion zone will be maintained during tests to protect workers during testing. The EA indicates that the allowable concentration for a specific chemical will be determined on a case-by-case basis for each test. This determination will be based on the chemical toxicity and test constraints (e.g., wind direction, wind speed, etc.). The concentration will be chosen so that the specified exclusion zone, identified in this EA, can be maintained. This exclusion zone will also be maintained to be protective of human health during the tests. This approach is protective of potential adverse impacts to human health and the environment outside the exclusion zone and off the NTS by enforcing a compliance boundary at the edge of the exclusion zone.

Response to comment L-5-4: NNSA/NSO was, and is, aware of potential concerns and interest by the public and other Federal and state agencies for the proposed actions. Because of this, NNSA/NSO provided well publicized opportunities for public input during the scoping and comment periods for the EA, exceeding Federal NEPA requirements. NNSA/NSO's public involvement activities are described in Section 1.4 of the EA.

Response to comment L-5-5: The administrative land withdrawals which composed the boundaries of the Nevada Test Site were withdrawn for the use of the DOE's successor Atomic Energy Commission for "weapons testing" and for purposes "in connection with" the Nevada Test Site. As noted in the current EA, historical uses of the NTS have included a number of compatible activities in addition to the primary continuing purpose of weapons testing, including chemical tests at the HAZMAT Facility and various "work for others" activities. The currently proposed activities are also compatible, and not inconsistent with, the ongoing availability of the NTS for use as a weapons testing site.

In response to comments to the DOE's NTS EIS (1996), the DOE committed to entering into a consultation process with the U.S. Department of Interior to ensure that uses of the NTS would remain consistent with the purpose for which the

lands were withdrawn. (As noted in the Agency for Nuclear Projects comment, a similar DOE commitment was entered into in settlement of a state of Nevada lawsuit.) The consultation process between the DOE and the DOI is still underway, and DOE has kept the State of Nevada apprised of this through repeated correspondence with state of Nevada officials from 1998 through 2003.

Response to comment L-5-6: The general activity, testing with releases, is covered within the NTS EIS. Because the proposed actions (i.e., releases of biological simulants) were not specifically addressed in the EIS, NNSA/NSO determined that an EA was the appropriate NEPA documentation.

Response to comment L-5-7: The Federal agencies responsible for protecting public health and the environment will be consulted on a case-by-case basis, as appropriate.

Response to comment L-5-8: While DHS may be part of the national need that was identified in the purpose and need section of the EA, they are not responsible for evaluating the environmental impacts of the proposed action.

Response to comment L-5-9: The chemicals that would be used as part of the activities under the proposed action are commercially available. Although some of the chemicals may be considered hazardous, they are by no means suitable as weapons. The biological simulants that would be used are not pathogenic and would pose no serious threat to humans. The chemicals and biological simulants that would be transported to the NTS for use in activities under the proposed action have little to no attractiveness as targets of terrorism or sabotage. Therefore, terrorism and sabotage are not considered to be a credible threat and are not addressed in this EA.

Response to comment L-5-10: This EA is not an appropriate venue for consideration of broad policy decisions such as establishment and use

of an independent oversight and enforcement organization for NNSA/NSO activities. As described in the EA, Section 2.1.4, NNSA/NSO will use a Project Advisory Panel to review uses of biological simulants and releases of chemicals to ensure that proposed activities are conducted in a safe manner. The panel will include representatives from various Federal agencies, including the U.S. Environmental Protection Agency, National Weather Service, and the U.S. Air Force.

The NTS is managed by the NNSA, a semi-autonomous agency within the DOE and completely separate from the Office of Civilian Radioactive Waste Management (OCRWM), which manages the Yucca Mountain Project. Certainly, work conducted at the NTS often is of such a nature that serious hazards to worker health and safety exist. In order to effectively deal with those hazards NNSA/NSO has established work control procedures that are designed to ensure adequate hazard identification, planning and hazard mitigation, and safe conduct of work.

Response to comment L-5-11: Chapter 5 and Appendix B of this EA identify Federal and state statutes and regulations applicable to the proposed action. A new Section 5.1.2 has been added to this EA to describe the role of state agencies in the proposed action.

Response to comment L-5-12: NNSA/NSO was, and is, aware of potential concerns and interest by the public and other Federal and state agencies for the proposed actions. Because of this, NNSA/NSO provided well publicized opportunities for public input during the scoping and comment periods for the EA, exceeding Federal NEPA requirements. NNSA/NSO's public involvement activities are described in Section 1.4 of the EA. Based on the opportunities for public involvement and review described in this EA NNSA/NSO believed there is no basis for an extension of the review period.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

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NEVADA STATE CLEARINGHOUSE

Department of Administration
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(775) 684-0209
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TE: April 15, 2004

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Conservation & Natural Resources
Director's Office
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Forestry
Conservation Districts
State Parks
Water Resources
Natural Heritage Program
Wild Horse Commission
Wildlife Department - Director's Office
Region 1 - Fallon
Region 2 - Elko
Region 3 - Las Vegas

Nevada SAI # E2004-167

Subject: Draft EA Activities using Biological Simulants and Releases of Chemicals at the Nevada Test Site

For more information on this project, please contact the project manager.

NEVADA STATE CLEARINGHOUSE NOTES: Also Reference E2004-125

closed, for your review and comment, is a copy of the above-mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than May 10, 2004. Use the space below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. Questions? Michael Stafford, Clearinghouse Coordinator, (775) 684-0209 or mstafford@budget.state.nv.us.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

☐ No comment on this project
☐ Proposal supported as written
☒ Additional information below

☐ Conference desired (See below)
☐ Conditional support (See below)
☐ Disapproval (Explain below)

AGENCY COMMENTS:

☒ Please see ATTACHED LETTER.

RECEIVED
APR 23 2004
DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

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STATE LANDS
Agency

4/22/04
Date

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

PHY-17-2004 15:45

P.13

R. MICHAEL TURNIPSEED, P.E.
Director
Department of Conservation
and Natural Resources

PAMELA B. WILCOX
Administrator

KENNY C. GUINN
Governor



State Land Office
State Land Use Planning Agency
Address Reply to
Division of State Lands
333 W. Nye Lane, Room 118
Carson City, Nevada 89706-0857
Phone (775) 687-4363
Fax (775) 687-3783

STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Division of State Lands

April 22, 2004

Mike Stafford
Nevada State Clearinghouse
209 East Musser Street, Room 200
Carson City, NV 89701

RE: E2004-167, Draft EA: Activities Using Biological Simulants and Releases of
Chemicals at the Nevada Test Site. **(DOE/EA-1494)**

Dear Mike:

The Division of State Lands has reviewed the proposal with the understanding that additional, more specific and technical comments are forthcoming from agencies such as Nevada Division of Environmental Protection (NDEP), Nevada Department of Wildlife (NDOW) and Nevada Department of Transportation (NDOT).

There are no lands under the jurisdiction of the Division of State Lands in the general vicinity that will be adversely affected by the proposed action. However, a number of the State's natural resources may be impacted by this proposal. Monitoring of impacts to these resources is critical so that the proper mitigation measures can occur and future improvements to the process made where applicable. It is very appropriate that the National Nuclear Security Administration (NNSA) plans to expand the Nevada Test Site (NTS) Ecological Monitoring and Compliance Program to include monitoring and assessment of NTS ecological systems for impacts attributable to the proposed testing program (DOE/EA-1494, Chapter 4.0, page 4-1).

During the consultation meeting held at the Nevada Department of Conservation and Natural Resources in Carson City on February 17, 2004, Michael Skougard (NNSA Nevada Office), was asked about monitoring. Specifically, he was asked if there would be the creation of a "project advisory committee" that would give oversight and comment on each test, and he answered in the affirmative. The committee would include representatives from various State agencies, most

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April 22, 2004
Mike Stafford
E2004-167-
Page 2

notably NDOW and NDEP. The Draft EA does not mention the creation of a committee.

- It is recommended that this committee be created so that adequate monitoring and, more importantly, dialogue between the federal agencies and the State can be maintained. Although the Draft EA states that all applicable regulations will be adhered to regarding water, soil, air, transportation, etc., monitoring utilizing a comprehensive process in a transparent manner will improve the comfort level of State agencies and Nevada's citizens.

L-6-1

The Draft EA details measures to be taken in the event that a cleanup is required.

- It is recommended that NDEP be involved, if they are not already, in any cleanup operation in the event one is needed.

L-6-2

The Draft EA details impacts to flora, fauna and cultural/historical resources in the vicinity of the tests.

- Prior to any tests, it would be extremely prudent to involve NDOW, the State Historic Preservation Office and the Nevada Natural Heritage Program in development of a plan that will proactively address measures to be implemented that will reduce and/or eliminate impacts to these resources.

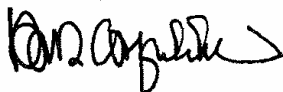
L-6-3

Finally, any time one mentions the topic of weapons of mass destruction and biological and chemical agents, citizens can become concerned. The prospect of releasing these agents for testing purposes into Nevada's environment can cause rumors to fly and fears to spread. It is advised that the NNSA take every measure possible to inform the public about the proposed tests, their parameters, the agents' transport, release and ultimate end.

L-6-4

Thank you for the opportunity to comment on this proposal and for forwarding this letter to the appropriate federal agencies. If you have any questions, please feel free to contact me at 775-687-4364 ex 235.

Sincerely,



Don D. Canfield III, AICP (Skip)
Senior Planner

Response to comment L-6-1: NNSA/NSO is evaluating a possible project liaison role in test planning for both the State and Nye County.

Response to comment L-6-2: NNSA/NSO will coordinate with NDEP to identify reasonable opportunities for involvement in project monitoring and mitigation procedures.

Response to comment L-6-3: NNSA/NSO will comply with the National Historic Preservation Act and 36 CFR Part 800 on a project-by-project basis. NNSA/NSO may at a later date determine that a Programmatic Agreement (PA) defining specific compliance activities may be necessary. At that time, NNSA/NSO will consult with the Nevada SHPO and the Advisory Council on Historic Preservation to prepare a PA.

As stated in the EA, surveys for historical and ecological resources will be conducted when there is the possibility that test activities have the potential for adverse impacts to these resources. NNSA/NSO will consult with appropriate Federal and State agencies as needed to reduce and/or eliminate impacts to sensitive natural resources.

Response to comment L-6-4: NNSA/NSO recognizes the public concern regarding the proposed action and has used the public involvement process in the completion of this EA, additional public notifications would be made on a case-by-case basis.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

PHY-17-2004 15:43

P.04

ALLEN BIAGGI, *Administrator*

(775) 687-4670

Administration
Facsimile 687-5856

Water Quality Planning
Water Pollution Control
Facsimile 687-4684

Mining Regulations & Reclamation
Facsimile 684-5259

State of Nevada
KENNY C. GUINN
Governor



R. MICHAEL TURNIPSEED, *Director*

Air Pollution Control
Air Quality Planning
Facsimile 687-6396

Waste Management
Federal Facilities

Corrective Actions
Facsimile 687-8335

NDEP.nv.gov

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
Carson City, Nevada 89706

May 15, 2004

William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Site Office
P.O. Box 98518
Las Vegas, NV 89193
suiter@nv.doe.gov

**Re: Comments - Preapproval Draft Environmental Assessment for
Activities Using Biological Simulants and Releases of Chemicals at the
Nevada Test Site, April 2004**

Dear Mr. Suiter:

Thank you for soliciting comments on the above-referenced Environmental Assessment from the Nevada Division of Environmental Protection (NDEP). We strongly encourage the National Nuclear Security Administration, Nevada Site Office (NNSA/NSO) to consider these comments carefully before making any final decisions pursuant to the release of biological simulants and chemicals on the Nevada Test Site (NTS).

NDEP Comment Letter: DOE/EA-1494 dated April 2004 -- This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

General Comments:

Given the scope of the proposed action defined in the Draft EA, along with the analysis of potential environmental effects on the human and natural environment, we believe that preparation of an Environmental Impact Statement is probably not warranted at this time. In the same regard, we do believe the current Draft EA is inadequate in certain areas and must be significantly revised. We strongly recommend the proposed action and alternatives defined in the Draft EA be reconsidered. The EA states that very little information is available on acceptable concentrations of biological simulants in an occupational setting (page 2-7). Given these uncertainties, along with uncertainties defined below about "release modeling" NDEP strongly suggests that NNSA/NSO limit all testing activities to the authorized release boundaries encompassing the Hazmat Spill Center in Area 5 of the NTS. Accordingly, the EA should be amended to include an alternative that reflects this approach, which should then be adopted as the proposed action. Making this decision would allow NNSA/NSO to effectively mitigate potentially irresolvable problems associated with dispersion modeling issues (see comments below) and other related concerns about the release of biological simulants and chemicals in the biosphere throughout NTS.

L-7-1

Specific Comments:

1) Independent Review Process: We understand that activities described in the referenced document are being proposed to support national security mission activities for various federal agencies, and we recognize these are important endeavors. Nevertheless, it is imperative that the state of Nevada, through existing regulatory permits and oversight programs be kept informed of any biological simulants and chemical release tests on the NTS. In reviewing the Draft EA, however, it is clear that a formal and independent review process has not been fully considered to adequately involve state regulatory officials in the new testing activities proposed at the NTS.

L-7-2

For example, the EA identifies a "*Test Process Planning and Management*" protocol that would be implemented to ensure each test series is properly planned and managed by NNSA/NSO "customers"¹ to address any potential environmental impacts that might occur. According to the Draft EA, implementation of this process would be managed by an existing NNSA/NSO Safety Review Panel that currently oversees test planning for

¹ e.g., customers such as other federal agencies, universities and commercial firms

NDEP Comment Letter: DOE/EA-1494 dated April 2004 – This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

MAY-17-2004 15:43

P.06

the Hazmat Spill Center (HSC) at Area 5 on the NTS. Since modeling the release of biological simulants and chemicals in the biosphere is an issue of concern to NDEP, (see specific comments below), it will be critical for NNSA/NSO to insure the state of Nevada (NDEP) is fully informed of test plans before such tests are conducted. The EA does indicate that a pending NDEP Class II Operating Permit would include submittal of all test plans before any tests were implemented (see section 3.2.6.2), yet the document fails to adequately clarify a formal connection between this regulatory requirement and the above-mentioned "Test Process Planning and Management" protocol. These coordination issues, i.e., NDEP's specific involvement in pre-test evaluation activities, should be further explained in the EA.

L-7-2

2) Regulatory Compliance: It is also apparent that this Draft EA presents certain legal inconsistencies in the fair and useful application of the National Environmental Policy Act (NEPA) process as it's applied to NNSA/NSO's "Work for Others" at the NTS. As written, the Draft EA would modify the release parameters under which the Hazmat Spill Center (HSC) currently operates. The Draft EA states HSC will continue to operate under the HSC EA¹ at least for larger chemical releases that cannot meet the criteria for low concentration releases, as defined by the Draft EA.

We contend that any activity that is conducted at the HSC cannot operate under two different environmental assessments depending on the size of a given planned release. Accordingly, we believe the HSC EA must be modified as a result of this current Draft EA; this is important as the HSC EA is incorporated by reference into the NTS Air Quality Operating Permit (# AP9711-0549) for releases conducted at the HSC.

L-7-3

As now envisioned under the Draft EA, chemical and biological releases would not be required to meet the existing HSC predominant wind direction criteria contained in the HSC EA. This is a de facto modification of the HSC EA; hence, it is strongly recommended that NNSA/NSO amend the HSC EA and document that the more relaxed criteria are still protective of human health and the environment.

3) Release of Bacterial Agents: According to the Draft EA, some of the bacterial agents would not be expected to affect the health of healthy humans. The EA does not,

L-7-4

¹ DOE/EA-0864 *Hazardous Materials Testing At the Hazardous Materials Spill Center, Nevada Test Site Environmental Assessment*, dated September 2002

NDEP Comment Letter: DOE/EA-1494 dated April 2004 – This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

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P.07

however, define what a "healthy" human is, nor does it explain the effects of the bacterial agents on an "unhealthy" human or other sensitive member of the public such as children, elderly or people with chronic allergies and/or respiratory problems. Given that NNSA/NSO is proposing to have the latitude to conduct releases anywhere on the NTS, there is the risk of exposure to the general public near NTS boundaries, as well as personnel working on adjacent restricted access properties and/or contractors associated with the Yucca Mountain repository projects or other "Work for Others" conducted on the NTS.

L-7-4

4) Dispersion Modeling: The proposed action in the referenced EA calls for releases of biological simulants and chemicals anywhere on the NTS. This approach presents significant logistical problems both in Air Quality permitting and in dispersion modeling. The NTS comprises a large area with varied terrain and elevations which cannot be overstated. Nonetheless, the referenced EA states that each proposed release would be modeled to determine the dispersion of the chemical or biological releases, however, there is no mention of the dispersion model that will be used, or the parameters which would be required to be used in the model. The Draft EA leaves model selection up to the "customer" that is conducting the release. Additionally, some of these releases could be from moving vehicles (aircraft, ground vehicles), creating additional complexities for dispersion modeling.

Leaving the model selection up to the customer to determine the dispersion of released materials will lead to confusing dispersion and air quality impact results. For uniformity, we strongly recommend the NNSA/NSO select one model that will be used for all releases conducted at the NTS.

L-7-5

The NNSA is obligated to develop and submit to the Nevada Division of Environmental Protection, Bureau of Air Pollution Control (NDEP/BAPC) a detailed modeling protocol that would be used for modeling all releases within the boundaries of the NTS. If the NNSA/NSO does not conduct the modeling directly, we again strongly recommend that each "customer" adhere to the modeling protocol and use the model specified by NNSA/NSO and approved by NDEP/BAPC.

The protocol would need to cover how each modeled release would be added to the current NTS site-wide emission inventory and be included in the overall site-wide

L-7-6

NDEP Comment Letter: DOE/EA-1494 dated April 2004 – This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

MAY-17-2004 15:44

P.08

modeling results for determining compliance with the National and Nevada Ambient Air Quality Standards (AAQS). Please be aware the referenced EA failed to identify the Nevada Ambient Air Quality Standards as an applicable requirement under 3.2.6.1 Regulatory Compliance. It is the burden of the NNSA/NSO, as the permitted entity, to ensure and document that all tests, in conjunction with all other permitted activities on the NTS, would not contribute to an exceedence of the AAQS. NNSA/NSO also needs to be aware that in addition to the list of Hazardous Air Pollutants (HAPs) defined by NRS 445B.140, the State of Nevada has the authority to regulate additional toxic regulated air as defined in NAC 445B.196 and regulated under 445B.2203.

L-7-6

The Draft EA uses an OSHA 8-hour time weighted average guideline of 5 mg/m³ for controlling limits of respirable particulates at the outer perimeter of the release site for release of biological simulants. NNSA must keep in mind that the releases must also meet the AAQS for particulates (PM₁₀) of 150 µg/m³ for a 24-hour average, at the NTS boundary for most releases; or at the edge of the HSC's administrative control, as defined in the HSC EA.

L-7-7

5) Air Quality Regulations: Appendix B cites the older air quality regulations (NAC 445B.001 through 445B.395). The current regulations are contained in NAC 445B.001 through 445B.3497. The NNSA/NSO needs to ensure that they are complying with the most current regulations for air quality permitting and compliance.

L-7-8

6) Hazardous Waste: Disposal/treatment of any explosive waste generated as a result of a release activity would need to meet the conditions of both the Resource Conservation and Recovery Act Hazardous Waste Permit (NEV HW009) and the NTS Air Quality Operating Permit.

L-7-9

7) Biological Materials: The Draft EA also included the provision to "use biological materials not specifically addressed in this EA" – this intended action should be further clarified in the final document.

L-7-10

NDEP Comment Letter: DOE/EA-1494 dated April 2004 – This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

PHY-17-2004 15:44

P.09

If you have any questions about these comments contact me at your convenience.

Sincerely,

Allen Biaggi
Administrator

AB/jbw

cc: Mike Elges, NDEP/BAPC
Mike Stafford, State Clearinghouse
Steve Robinson, Governor's Office

NDEP Comment Letter: DOE/EA-1494 dated April 2004 – This comments letter is for electronic distribution, the original letter is on file at the address on the letterhead.

6

Response to comment L-7-1: There is a national need to perform low concentration releases of chemicals beyond the types of chemical testing currently done in Area 5. This national need is detailed in the Purpose and Need statement of this EA. There is also a national need to perform testing with biological simulants. This EA was prepared to evaluate the proposed actions to meet these stated needs. This document will be used by NNSA to evaluate the potential impacts to human health and the environment.

Response to comment L-7-2: Currently, prior to any release of chemicals at the HAZMAT Spill Center, NNSA/NSO provides notification and a Test Management Plan Summary to the Nevada Bureau of Air Pollution Control (BAPC), pursuant to the NTS Air Quality Operating Permit. NNSA/NSO anticipates that this process will apply to activities proposed in this EA. In addition, a post-test report is provided to BAPC. NNSA/NSO is evaluating a possible project liaison role in test planning for both the State and Nye County.

Response to comment L-7-3: Tests would continue as allowed under the current HSC EA within the designated release area. This EA, evaluates several proposed actions which define release criteria that would apply to the NTS as a whole (which includes Area 5). These proposed release criteria are more restrictive on chemical concentrations than the existing HSC EA. As appropriate, releases could be performed under either EA depending on the type of release and the proposed release area.

Response to comment L-7-4: The bacteria selected as simulants are naturally occurring organisms found in the normal flora and fauna to which all individuals, both healthy, unhealthy and sensitive members of the public, are already exposed. The viral simulants do not display human pathogenicity. NNSA/NSO would ensure that simulant concentrations would be below detection limits at the nearest public or non-occupational worker receptor point. As indicated in Section 3.2.9.2, with appropriate administrative, access, and test controls in place,

there would be no impact to involved and non-involved workers and members of the public.

Response to comment L-7-5: Models which are appropriate for the proposed test are selected and run by the test sponsor. This selection is reviewed separately by BN, NNSA, and by external experts on the Project Advisory Panel. These independent reviewers may run other models to verify the submitted model results. It would not be appropriate to limit model selection because of the variety of releases that need to be modeled. Limited model selections could result in an inappropriate model being used to evaluate proposed releases.

Response to comment L-7-6: Section 3.2.6.1, Regulatory Compliance, has been revised to reflect Nevada Ambient Air Quality Standards. NNSA/NSO is aware that the State of Nevada has authority to regulate “toxic regulated air pollutants.”

Response to comment L-7-7: Appendix B includes descriptions of statutes and regulations applicable to the proposed action. Appendix B also describes United States Environmental Protection Agency (U.S.EPA) national ambient air quality standards (NAAQS), which include the particulate matter standards for PM10, and indicates Nevada’s authority to maintain the NAAQS. These statements acknowledge NNSA’s recognition of all applicable federal and state air quality standards and its intention to comply with these standards.

Response to comment L-7-8: The text in Appendix B of this EA has been changed to include the listing of current Nevada air pollution regulations. Nevada air quality regulations are contained in NAC 445B.001 through 445B.3497. Chapter 445B – Air Controls is divided into the following categories:

- Definitions—445B.001 through 445B.211
- General Provisions—445B.220 through 445B.283
- Permits Operating Permits Generally—445B.287 through 445B.331

- Class I Operating Permits—445B.3361 through 445B.3447
- Class II Operating Permits—445B.3453 through 445B.3477
- Class III Operating Permits—445B.3485 through 445B.3497

Response to comment L-7-9: The EA states in Section 3.2.12.2 Environmental Consequences, Hazardous Waste, that prior to treating explosive waste resulting from a release event, NNSA would consult with and obtain the approval of

the NDEP. During the consultation, the NDEP could review the proposed treatment method for its ability to meet the permit conditions of the RCRA Hazardous Waste Permit, the NTS Air Quality Operating Permit, and any other pertinent permits.

Response to comment L-7-10: Section 2.1.4 has been revised to more clearly define the process for evaluating proposed new biological simulants not specifically addressed in this EA.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17'04 14:25/ST. 14:20/NO. 4860748639 P 14

HOUSE OF REPRESENTATIVES
STATE OF UTAH

REPRESENTATIVE JACKIE BISKUPSKI

30TH DISTRICT
(SALT LAKE COUNTY)
753 EAST ROOSEVELT AVENUE
SALT LAKE CITY, UTAH 84105
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STANDING COMMITTEES: HEALTH AND HUMAN SERVICES;
WORKFORCE SERVICES
APPROPRIATIONS: ECONOMIC DEVELOPMENT AND HUMAN
RESOURCES

Mr. William C. Suiter
NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

May 11, 2004

Dear Mr. Suiter,

Please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-8-1

The recently completed Environmental Assessment is woefully inadequate. It fails to fully identify the agents involved and doesn't provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-8-2

During the years of nuclear testing, both above and under ground, we were constantly told that the tests were safe. That proved to be false as even the United States Government admits through its RECA program.

L-8-3

An Environmental Assessment may be appropriate for certain low risk activities, but open air testing of Chemical and Biological agents increases the potential of serious consequences for people and the environment.

L-8-4

Given the deadly history of the Nevada Test Site, it seems only reasonable that its current and future activities receive the thorough study accomplished through a full Environmental Impact Statement.

L-8-5

Sincerely,

Rep. Jackie Biskupski

Response to comment L-8-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the this ea does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-8-2: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-8-3: Comment noted.

Response to comment L-8-4: As indicated in Section 3.2.9.2, with appropriate administrative, access, and test controls in place, there would be no impact to involved and non-involved workers and members of the public.

Response to comment L-8-5: In 1996 DOE published *Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada* (DOE/EIS-0243), which addressed all current and then anticipated activities at the NTS. In 2002, a supplement analysis (DOE/EIS-0243-SA-01) was prepared that determined that activities to that point in time were still within the bounds of the 1996 EIS. This EA addresses specific activities not previously addressed.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17'04 14:23/ST. 14:20/NO. 4860748639 P 7

Jessica Sandler

From: Jessica Sandler [JessicaS@peta.org]
Sent: Friday, May 14, 2004 10:41 AM
To: 'suiter@nv.doe.gov'
Subject: Public comments on the NTS draft environmental assessment

Dear Mr. Suiter,

On behalf of People for the Ethical Treatment of Animals and our more than 800,000 members and supporters, I would like to register our concern with the proposed testing that is the subject of the "Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site" (<http://www.nv.doe.gov/Default.htm>).

The document states that efforts will be made to ensure that no "species of special interest" are adversely affected. However, no details are provided regarding how exposure to such species as desert tortoises, bats, and burrowing owls will be mitigated. Further, no consideration appears to be given to any of the resident animals who not "species of special interest" and to the impact this testing will have on them. Your own representative Mike Stougard is quoted as stating that "some mortality to small animals" could result (Las Vegas Sun, 3-17-04). We urge the National Nuclear Security Administration to allow for proper public notice and sufficient opportunity for public comment on the details of this test plan.

L-9-1

These comments are also being sent via U.S. mail and facsimile.

Sincerely,

Jessica Sandler, MHS
Federal Agency Liaison
People for the Ethical Treatment of Animals
tel: 757-622-7382, ext. 8001
fax: 757-628-0781

Response to comment L-9-1: Mitigation plans will depend on details regarding the material to be released, conditions of the release, and species present in the area. Mitigation will not be limited to any particular species, but will instead depend on activity-specific conditions and habitats. NNSA/NSO is aware of potential

concerns and interest by the public and other Federal and state agencies for the proposed actions. Because of this, NNSA/NSO provided well-publicized opportunities for public input during the scoping and commenting periods for this EA. NNSA/NSO's public involvement activities are described in Section 1.4 of this EA.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17.04 14:22/ST. 14:20/NO. 4860748639 P 6

~~STOLLER-NAVARRO~~

May 13, 2004

ESHQ:JDM-CD-04-018

William C. Suiter, NEPA Document Manager
Environmental, Safety & Health Division
National Nuclear Security Administration
Nevada Site Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Contract No.: DE-AC52-03NA99205
PREAPPROVAL DRAFT ENVIRONMENTAL ASSESSMENT (EA) FOR ACTIVITIES
USING BIOLOGICAL STIMULANTS AND RELEASES OF CHEMICALS AT THE
NEVADA TEST SITE (NTS)

Reference: Ltr, Hoar to Multiple Addressees, dtd 4/12/04

Dear Mr. Suiter:

In response to the above-referenced letter, we have no comments or suggestions for improvement of the subject document. It is assumed that if these operations occur at the NTS, they will be coordinated with other NTS activities and the Real Estate/Operations Permit process to ensure safe operations.

L-10-1

If you have any questions or require further information, please contact me at 295-1858 or John D. Moroney III, ESH&Q Manager, at 295-2225.

Sincerely,

Barbara E. Smith
for John M. Fowler
Acting Program Manager

cc:
K. A. Hoar, ESHD, NNSA/NSO, Las Vegas, NV
K. C. Thompson, TD, NNSA/NSO, Las Vegas, NV
J. D. Moroney III, SNJV, Las Vegas, NV

Response to comment L-10-1: Yes, all operations related to this EA will be coordinated with other activities at NTS and will comply

with the Real Estate/Operations Permit process to ensure safe operations.

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

May 8, 2004

Dear Mr. Suiter:

Please conduct a full Environmental Impact Statement before considering testing of Chemical or Biological agents at the Nevada Test Site (NTS).

L-11-1

The recently completed Environmental Assessment (DOE Environmental Assessment 1494: "Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site") is inadequate.

During the years of nuclear weapons development and testing, from the 1950s through the 1990s, with both above ground and underground tests, the US public was constantly told that the tests were safe. That has been proven to be false. Even the United States Government now admits this through its RECA program.

L-11-2

Environmental Assessment 1494 appears to be used in this case as a means of circumventing proper public oversight and inquiry into the types of activities that are planned for the NTS in the near future, let alone over the long term. An EA may be appropriate for certain low risk activities, but open air tests of Chemical and Biological Agents raise the spectre of serious consequences for people and the environment. Although in public statements at two *obscure* recent town meetings in Nye County and Amargosa Valley, Nevada, Mike Skougard and Carl Gertz tried to allay public concern, these meetings were purposely held at locations upwind from the NTS. They were not widely advertised. Very few people attended (because no one knew about them beforehand). No one "downwind" of the NTS has been informed about the current plans for the NTS, even after these two "public" announcements. This includes the entire population of the state of Utah. Why is this?

L-11-3

EA 1494 briefly outlines the potential affects on animals and plants, but very little is mentioned about the potential affects on people. It fails to fully identify the agents involved (refers only to "chemicals" or "herbicides, insecticides and pesticides") and does not provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-11-4

Neither in EA 1494 nor in these two town meetings were the actual proposed chemical agents identified. Instead, they listed only general categories: herbicides, insecticides, pesticides. Agent Orange is an "herbicide", VX gas is an "insecticide", and Arsenic is a "pesticide" by chemical

L-11-5

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

definition and by Treaty classification. Are these the agents to be tested? No one can agree that these agents are safe or benign. Mr. Skougard stated that, "Most of what we're looking at are not actual chemical weapons, in fact we wouldn't release any of that at all." (*Pahrump Valley Times*, March 19, 2004). In certain forms, none of these three agents are "chemical weapons". However, they may be appropriately packaged and used as chemical weapons. It all depends on semantics. Because of the very vague and very circumspect language used by the National Nuclear Security Administration in describing the plans for testing of chemical agents at the NTS, it is not possible to determine the actual potential environmental (or human health) impact of these proposed tests as currently described in the EA. Thus, a full Environmental Impact Statement would clearly seem to be required.

L-11-5

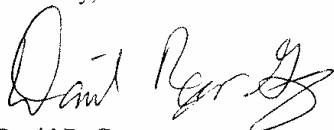
As someone who was born in Utah and lived the first few years of my life there, during the time when chemical testing and nuclear testing was being performed, I am concerned for my future health. Only time will tell on that. However, right now I am more concerned that we do not repeat the mistakes of the past and expose others to the same types of hazards.

L-11-6

Given the deadly history of the Nevada Test Site, it only seems reasonable that its current and future activities receive the thorough study and oversight accomplished through a full Environmental Impact Statement.

L-11-7

Sincerely,



David R. Gang
Department of Plant Sciences and
Institute for Biomedical Science and Biotechnology
University of Arizona
303 Forbes Building
Tucson, AZ 85721-0036
Tel.: 520-621-7154
Fax.: 520-621-7186
Email: gang@ag.arizona.edu

Response to comment L-11-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in this EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-11-2: Comment noted.

Response to comment L-11-3: As described in Section 1.4, NNSA/NSO conducted a public involvement process for this EA including press releases and paid advertisements announcing two public scoping meetings which were conducted in Las Vegas and Pahrump, Nevada. In addition to public scoping, NNSA/NSO coordinated with numerous local, State and Federal officials as described in Section 5.1. The EA addresses low concentration releases of chemical and biological simulants. Within a short distance from the release site concentrations would be below detection limits.

Response to comment L-11-4: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the

test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-11-5: As noted in Section 2.1 of this EA, the chemicals that would be used under the proposed action may simulate a chemical weapon or may be an expected emission or effluent from a chemical weapons production facility or other process or facility type of interest. In order to further clarify this point, Section 2.1 has been revised to indicate that in no case would a toxic chemical listed in Schedule 1 or Schedule 2 of the Chemical Weapons Convention be used as part of any releases conducted at the NTS.

Response to comment L-11-6: Comment noted.

Response to comment L-11-7: In 1996 DOE published *Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada* (DOE/EIS-0243), which addressed all current and then anticipated activities at the NTS. In 2002, a supplement analysis (DOE/EIS-0243-SA-01) was performed that determined that activities to that point in time were still within the bounds of the 1996 EIS. This EA addresses specific activities not previously addressed.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

May 13, 2004

Mr. William C. Suiter
U.S. Department of Energy
National Nuclear Security Administration
Nevada Site Office
Office of Public Affairs
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

Please conduct a full Environmental Impact Statement before considering testing Chemical or Biological Agents or simulants at the Nevada Test Site.

There are a great number of issues that have not been addressed in DOE/EA #1494 which would have to be resolved before a "Finding of No Significant Impact" could be legally and lawfully reached. For example:

L-12-1

I. Security of the Biological Simulants

Where do the involved Agencies plan to acquire the "killed" Influenza A Virus? If the Virus is to be manufactured and killed by a private defense contractor, what steps are going to be taken to secure that location, to secure the transportation to the site, to secure the storage of the Influenza A Virus prior to releases and/or testing, and to secure that the sample is not tampered with or altered in any way prior to releases and/or testing? The same security concerns apply if the Influenza A Virus is to be manufactured at and "killed" by a branch of the U.S. Military not located at the Nevada Test Site. Are the involved Agencies planning to acquire "killed" Influenza A Virus from a manufacturer outside of the U.S.? The security and integrity of the Influenza A Virus samples and all other Biological samples is not addressed in this EA and could pose not just a Significant Impact, but a HUGE Impact not just to the Test Site, but to all surrounding environments.

L-12-2

II. Content and Concentration of the Chemical Agents

Nowhere in the proposal does it list exactly which Chemical Agents are to be used. Nowhere in the proposal does it list exactly what concentrations of Chemical Agents are to be used. It only offers, as an example, "herbicides, insecticides, and pesticides". What this EA fails to address is

L-12-3

the significant differences in the safety levels of different "herbicides, insecticides, and pesticides". It is IMPOSSIBLE to determine the impact, or to determine that there will be "No Significant Impact" without knowing which "herbicides, insecticides, and pesticides" we are talking about here. AGENT ORANGE is classified by chemical and by Treaty definition as an "herbicide". This Assessment certainly cannot be attempting to claim that there would be "No Significant Impact" from "explosive releases" of Agent Orange? Likewise, "insecticides", by chemical and Treaty definition are ALL organophosphates- various combinations of phosphorus with alcohols and/or phenols. "Insecticides" run the gambit from household "Raid" you have under your kitchen sink to VX gas. Which "insecticide" is going to be used and in what quantities? It is IMPOSSIBLE to conclude that there will be "No Significant Impact" to the Environment without stating exactly which chemicals are intended to be "dispersed" into the air and in what concentrations. And, finally, "pesticides" include Arsenic and Strychnine- both of which pose dire consequences to small rodent life (mice, rats, squirrels, prairie dogs, etc.) and are known to be used by HUMANS to commit suicide. Surely, this EA is not attempting to claim that there would be "No Significant Impact" to the Environment using either explosive or passive releases of pesticides! More information is needed.

L-12-3

III. Hazards to Humans- Especially Pregnant and Nursing Women, Small Children, the Elderly, and the Chronically Ill or Immunocompromised.

NOWHERE in this Environmental Assessment are concerns for these important segments of our Human population addressed - even though these groups of people are a large part of all Citizens of the United States that it is supposed these tests are being suggested to help protect. This is a MASSIVE oversight. The claim cannot be made that there would be "No Significant Impact" to these groups of people living around and/or downwind of the tests because the issue has not even been addressed in this Environmental Assessment.

L-12-4

There are two issues affecting these populations that are not adequately addressed in this Environmental Assessment: Content of the Tests and Containment of the Tests.

A. Content of the Tests is referred to above but needs to be addressed from the HUMAN angle at this juncture:

A1- Biological Simulants and Hazards to Humans: Chapter 3, Page 17, lines 30-46 refer to these concerns, but, again, they are not adequately addressed in this EA. Line 30 states, "Biological simulants could be released as suspended aerosols and could travel beyond the NTS boundaries. However, given that the biological simulants were selected

L-12-5

because of their documented lack of toxicity *to healthy humans...*". This line of the EA ADMITS that biological simulants could travel beyond the NTS boundaries. That relates to the issue of containment. The documented lack of toxicity *to healthy humans* is reassuring to healthy humans- that is the average 155 pound healthy adult male. But what about to everyone else? This is a VERY SERIOUS CONCERN!!! What about toxicity to pregnant and nursing mothers? What about toxicity to small children? What about toxicity to people with AIDS? With Cancer? What about toxicity to the Elderly? There are large populations of Elderly people who move to St. George, Utah, downwind of the NTS and this proposal, to retire.

L-12-5

A2- Chemicals and Hazards to Humans: Again, it is impossible to determine the impact the proposed open-air Chemical Agent releases would have on these populations because not enough information is provided about which Chemical Agents would be used nor the concentrations that would be used.

L-12-6

B. Containment of the Tests: This is a serious concern with regard to the proposed open-air testing of both the Biological Agents and the Chemical Agents.

B1- It has already been referenced above that this EA admits that 100% containment of the Biological Agents that are potentially hazardous to the human population groups listed (Pregnant and Nursing Mothers, Young Children, the Immuno-Compromised or Chronically Ill, and the Elderly) will not be possible if the proposed open-air testing is done. So a "Finding of No Significant Impact" cannot be found, unless the participating Government Agencies consider the aforementioned human populations of "No Significance".

L-12-7

B2- A particularly dangerous scenario for downwind Pregnant and/or Nursing Women, Children, the Elderly, and the Chronically Ill regarding the potential for exposure to Chemical Agents, and even unplanned Combinations of Chemical Agents, is suggested in Chapter 3 page 15 and no attempt to address issues of Environmental and Human Impact is even made. The accumulation of Hazardous Waste in forms of: 1) contaminated soil and vegetation piling up in landfills (and the contaminating chemicals potentially seeping into underground water systems, being blown to the winds, or evaporating into the atmosphere and raining down on distant locales) and 2) contaminated wastewater accumulating from decontamination activities and water-borne release tests is referred to (Chapter 3, Page 15) but no attempt is made to address this issue in regards to HUMANS including: Pregnant/Nursing Women, Children, the Elderly, and the Chronically Ill. A thorough perusal of this EA suggests an

L-12-8

even more ominous threat: the EA states that wastes from Biological Agents (Is this referring to the virion fragments after the live or dead cellular host is destroyed? It is not clear in the EA what these "Biological Agent Wastes" will consist of) will be dumped into the Site's "Containment Ponds" and yet, NOWHERE in this EA is the issue of mosquito-borne viruses and the possibility of mosquito-borne viral outbreaks addressed. What happens when a bunch of "deactivated" virus (virion fragments) get dropped into a standing cesspool of toxic waste and mosquitoes breed in the puddles? Does anyone know? Do we want to find out?

L-12-8

B3- Human inability to control the wind, the clouds and the rain, the water cycle, soil dispersion, and mosquitoes make CONTAINMENT a very SERIOUS issue that has Potentially Global Impact and needs to be addressed much more thoroughly than it is in this EA.

L-12-9

IV. Hazards to Animals

This DOE/EA #1494 admits en de facto, and Mike Skougard admitted openly in his Press Conference (Las Vegas SUN, March 17, 2004 and Pahrump Valley Times, March 19, 2004) address to Nye County Commissioners, that there ARE Significant Impacts to "small" animals in the area ("Skougard said the releases could result in some mortality (death) to animals and plants"). Some issues have been raised regarding the Endangered Species Mojave Desert Tortoise. And the Agencies involved have suggested "mitigation measures" such as rounding up all the tortoises and moving them to another locale. There is also significant concern about migratory birds- not just as an "animal rights" issue, but as a CONTAINMENT issue as well. Migratory birds are known carriers of Viruses. It is extremely interesting to note from a Human standpoint that worries about the Desert Tortoise have been addressed in such detail and yet the particular special needs of potentially exposed Pregnant/Nursing Women, Young Children, the Chronically Ill, and the Elderly are never even mentioned.

L-12-10

V. Hazards to Plants

This DOE/EA #1494 admits en de facto, and, again, Mike Skougard admitted in his Press Conference, referenced above, that there would be some death of plants. Because of the uniqueness of the Great Basin Range and the ongoing studies of plant life in the area a Finding of No Significant Impact cannot be speedily accepted. More research is needed. In light of the fact that 100% Containment is impossible in this proposal, especially in the case of aircraft releases, there is also significant cause for concern that some of the "herbicide" used might migrate to neighboring farming and/or grazing lands posing the threat of a Significant Negative Impact on pasture.

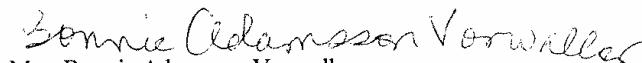
L-12-11

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

Again, because this Environmental Assessment does not adequately address (or, in some cases, as stated above, address at all) the concerns regarding the security of the Influenza A Virus samples and the security of the other Biological Agents to be used, doesn't fully list the Chemical Agents and quantities of Agents to be used, doesn't address the very real potential dangers to Pregnant/Nursing Women, Children, the Chronically Ill, and the Elderly, and does admit to Significant Impact to animals and plants in the region, I again request that a full-scale Environmental Impact Study/Statement be undergone before the proposed open-air Chemical and Biological Agent testing can begin.

L-12-12

Sincerely,



Mrs. Bonnie Adamsson Vorwaller

Concerned U.S. Citizen

P.O. Box 142613

Austin, Texas 78714-2613

phone: (512)491-8409

fax: (512)491-0519

SENT 5.14.04 VIA EMAIL TO SUITER@NV.DOE.GOV

SENT 5.14.04 VIA EMAIL TO SUITER@DOE.NV.GOV

SENT 5.14.04 VIA FAX TO (702) 295-0154 ATTN: MR. SUITER

CALLED TO CONFIRM RECEIPT OF FAX:

SENT 5.14.04 VIA USPS GUARANTEED OVERNIGHT DELIVERY

RECEIPT #:

CONFIRMATION#: EL363469796 U.S.

Response to comment L-12-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-12-2: Acquisition, treatment, transportation and final disposition of biological simulants is the responsibility of the testing organizations. Access to NTS is controlled to preclude unauthorized entrance. Additional security will be provided as needed. All biological simulants brought onto the NTS will be afforded an appropriate level of security.

Response to comment L-12-3: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Section 2.1.5.2 of this EA addresses concentrations of chemicals that would be used.

As noted in Section 2.1 of this EA, the chemicals that would be used under the proposed action may simulate a chemical weapon or may be an expected emission or effluent from a chemical weapons production facility or other process or facility type of interest. In order to further clarify this point, Section 2.1 has been revised to indicate that in no case would a toxic chemical listed in Schedule 1 or Schedule 2 of the Chemical Weapons Convention be used as part of any releases conducted at the NTS.

Some of the chemical agents may fall into the categories of herbicides, insecticides or pesticides. However, the chemical agents are

not limited to those categories and may include a wide range of chemicals.

Response to comment L-12-4: The EA indicates that the allowable concentration for a specific chemical will be determined on a case-by-case basis for each test. This determination will be based on the chemical toxicity and test constraints (e.g., wind direction, wind speed, etc.). The concentration will be chosen so that the specified exclusion zone, identified in this EA, can be maintained. This exclusion zone will be surveyed for sensitive or endangered species for each specific test. This exclusion zone will also be maintained to be protective of human health during the tests. This approach is protective of potential adverse impacts to human health and the environment outside the exclusion zone and off the NTS by enforcing a compliance boundary at the edge of the exclusion zone.

Response to comment L-12-5: The bacteria selected as simulants are naturally occurring organisms found in the normal flora and fauna to which all individuals, both healthy, unhealthy and sensitive members of the public, are already exposed. The viral simulants do not display human pathogenicity. NNSA/NSO would ensure that simulant concentrations would be below detection limits at the nearest public or non-occupational worker receptor point. As indicated in Section 3.2.9.2, with appropriate administrative, access, and test controls in place, there would be no impact to involved and non-involved workers and members of the public.

Response to comment L-12-6: Chemical concentrations are required to be less than the applicable occupational guidance level (TLV, REL, or PEL) at the outer test perimeter of 500 meters. Plume dispersion characteristics indicate that simulant concentrations would be below detection limits at the nearest non-occupational receptor point.

Response to comment L-12-7: See response to Comment L-12-5.

Response to comment L-12-8: Any hazardous waste that may result from the release of chemicals or biological simulants would be

properly managed in accordance with regulatory requirements. Management of waste, including hazardous waste, is fully described in Section 3.2.12 of this EA. Wastewater from decontamination activities would be characterized and if it meets the requirements of the NTS wastewater permit would be disposed in the NTS Area 23 or Area 6 sewage lagoon systems. Wastewater that would be considered hazardous or biological waste would be managed in accordance with all applicable State and Federal regulations. Section 3.2.12 of the EA has been revised to clarify this point.

There would be no releases of mosquito-borne viruses under the proposed activities.

Response to comment L-12-9: This EA has not identified containment as a control measure for simulant testing. As stated previously, the bacterial simulants already exist naturally on a global scale. The viral simulants present no adverse human health effects. Chemical concentrations will be controlled at the test perimeter to below occupational levels and plume dispersion will result in non-detectable concentrations at non-occupational receptor points.

Response to comment L-12-10: A 1996 Biological Opinion issued by the U.S. Fish and Wildlife Service for NTS activities (File No. 1-5-96-F-33) describes procedures for protecting the desert tortoise during activities conducted by NNSA/NSO. The second paragraph of Section 3.2.7.1 has been revised to state that activities associated with releases of chemicals and biological simulants will be conducted in accordance with the 1996 or subsequent Biological Opinions, and states that if pre-activity surveys determine that desert tortoises occur in the release area, appropriate mitigation measures will be established in coordination with the U.S. Fish and Wildlife Service.

Releases of chemicals or biological simulants during breeding season would be preceded by pre-activity surveys to search for active bird nests. The text in Section 3.2.7.1 has been revised to state that releases will not be conducted in areas where active nests are located. Regarding the concern that chemicals or biological simulants might reduce the abundance of food items (e.g., insects, rodents, plants) of birds, the proposed releases are expected to impact small areas and any given area would typically not be exposed to multiple releases (see third paragraph of Section 3.2.7.1). Thus, potential impacts due to reduced prey populations would be expected to be negligible. For tests that would include the release of chemicals or biological simulants that could persist in the environment for more than a few weeks, a remediation plan would be developed and implemented in coordination with the U.S. Fish and Wildlife Service.

Section 3.2.7.1 addresses environmental consequences to biological resources.

Response to comment L-12-11: As discussed in Section 3.2.7.1, NNSA/NSO intends to manage the program such that the proposed releases would occur in different areas. Fauna in any given area would typically not be exposed to multiple releases and therefore, better able to recover from any potential adverse impacts. NNSA/NSO recognizes the uniqueness of the Great Basin Range, but the proposed activities are expected to occur in habitats that are well represented at the local and regional levels, and thus the spatially-limited effects would minimally impact vegetation resources.

Response to comment L-12-12: The issues summarized in this paragraph are addressed in the responses to L-12-1 through L-12-11 above.

May 14, 2004

ATTN: Mr. William C. Suiter
U.S. Department of Energy
National Nuclear Security Administration
Nevada Site Office
Office of Public Affairs
P.O. Box 98518
Las Vegas, NV 89193-8518
phone: (702) 295-3521
fax: (702) 295-0154

Re: Petition for Extension of the Public Comment Period for
DOE/EA#1494.

Mr. Suiter:

Below I am "cc"ing you a copy of my e-mail to Mr. Linton
Brooks, NNSA Administrator, requesting a 30-60 day
Extension of the "Public Comment Period" for DOE/EA#1494:

May 14, 2004

ATTN: NNSA Administrator, Mr. Linton Brooks

Dear Mr. Brooks:

I am writing on behalf of "Joe Q. Public" to
petition for a 30-60 day extension of the
public comment period for DOE/EA#1494.

This particular EA is very long and very involved
and more time is needed to properly review it
and make intelligent comments.

To approve this extension, you can email me
at save_the_world@netzero.com (I apologize
for the strange email address, it's for my day job),

L-13-1

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

fax me at (512)491-0519, or mail me at P.O. Box
142613, Austin, Texas, 78714-2613.

Sincerely,

Mrs. Bonnie Adamsson Vorwaller
Concerned U.S. Citizen

The original request has been e-mailed to Mr. Brooks, BUT I have no way to know if he received it, so my Fax to you, Mr. Suiter, is serving as formal notice of the request AND I want you to ensure that (a) Mr. Brooks has received the request; and (b) that I am sent a formal response notifying me that it has been received by the proper decision-maker at the Agency for consideration.

Thank you.

Sincerely,

Bonnie Adamsson-Vorwaller
Bonnie Adamsson Vorwaller
P.O. Box 78714-2613
Austin, Texas 78714-2613
Fax: (512) 491-0519

5/14/04 Sent via FAX 4:16 p.m. 1(702)295-0154 (see attached)

*5/14/04 Sent via USPS Guaranteed Overnight Delivery
#EL363469840 U.S.*

Response to comment L-13-1: NNSA/NSO was, and is, aware of potential concerns and interest by the public and other Federal and state agencies for the proposed actions. Because of this, NNSA/NSO provided well-publicized opportunities for public input during the scoping and commenting periods for the EA, exceeding

Federal NEPA requirements. NNSA/NSO's public involvement activities are described in Section 1.4 of the EA. Based on the opportunities for public involvement and review described in this EA NNSA/NSO believes there is no basis for an extension of the review period.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

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PSR®



telephone (202) 667-4260
facsimile (202) 667-4201
email: psmatl@psr.org

PHYSICIANS FOR SOCIAL RESPONSIBILITY®

1875 Connecticut Avenue Northwest Suite 1012 Washington DC 20009

FAX COVER SHEET

TO: Mr. William Switzer
FROM: Jays Tiwan
DATE: 5/14/04
RE: DOE EA 1494
FAX: 702-295-0154

Total number of pages, including cover sheet 3

If there are any problems with this transmission, please call (202) 667-4260
Thank you!

PSR



telephone (202) 667-4260
facsimile (202) 667-4201

PHYSICIANS FOR SOCIAL RESPONSIBILITY
1875 Connecticut Avenue Northwest Suite 1012 Washington DC 20009

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

May 14, 2004

Re: Comments on DOE Environmental Assessment 1494: "Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site"

Dear Mr. Suiter:

Physicians for Social Responsibility (PSR) is concerned that the recently completed Environmental Assessment ("DOE Environmental Assessment 1494: "Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site") fails to address important issues related to public health and environmental safety. We urge that the Department of Energy (DOE) conduct a full Environmental Impact Statement including open public hearings and an adequate public comment period prior to authorizing any activities involving open-air testing and release of chemical and possible biological agents at the Nevada Test Site (NTS).

L-14-1

PSR is a nonpartisan organization representing over 30,000 physicians, public health professionals, and concerned citizens working to eliminate nuclear weapons and address the public health and environmental legacy of nuclear, chemical and biological weapons testing and production and use. Since its founding over forty years ago, PSR physician members have dedicated their efforts to protecting the interests of workers and communities put in harm's way by U.S. nuclear, chemical and biological weapons activities and have advocated for a complete cessation of these practices.

We believe that the Environmental Assessment 1494 does a poor job at explaining the proposed chemical biological agents testing plan at NTS and it is woefully inadequate in describing the actual and potential impact of this plan for public health and environment. Specifically, the DOE Environmental Assessment 1494,

- Fails to fully identify all chemical and biological agents involved and does not provide a comprehensive analysis of actual and potential health and environmental risk factors necessary to guarantee public health and environmental safety in the event of any subsequent chemical or biological release.
- Was drafted with little public input. DOE held two town meetings in Nye County and Amargosa Valley, Nevada, both upwind of the Nevada Test Site. The time and location of these meetings was not widely advertised which prevented many stakeholders from attending them.

L-14-2

L-14-3

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

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- Justified the selection of Nye County and Amargosa Valley, Nevada, because of their proximity to NTS. However, the selection of these upwind locations excludes people from many of the downwind areas that could be affected in the event of any chemical or biological release. The fallout from nuclear tests conducted at the NTS traveled thousands of miles and affected most every state in the country. Individuals living directly downwind of NTS, like the residents of Utah, were heavily affected from the radioactive fallout. After a long period of denial and lethargy, the United States government has just begun to acknowledge and accept some responsibility for the harm inflicted on the U.S. public by decades of nuclear testing at NTS. People downwind of NTS continue to pay dearly for years of nuclear testing which their government told them was safe. Therefore, it is only prudent and just that these individuals and communities are given the opportunity to voice their opinion on the open-air testing of chemical and biological agents at NTS that could potentially affect their health.
- Finally, the DOE Environmental Assessment 1494, only outlines the potential affects for animals and plants but does little to explain the risk for humans affected by the potential release of chemical and biological agents as a result of these activities. It also fails to list all agents that would be used during these tests. The DOE EA 1494 refers only to "chemicals" or "herbicides, insecticides and pesticides." Such a vague description prevents us from assessing the short or long-term health and environmental impact of these activities and guarantying public health and environmental safety.

L-14-4

L-14-5

For over forty years PSR physicians have dedicated themselves to protecting public health and opposing the production, testing and use of nuclear chemical and biological weapons and material. Open-air testing involving chemical and biological agents at NTS could have serious consequences for public health and environmental safety and is a decision that should not be taken lightly by our government. As such, we strongly urge the Department of Energy to conduct a full Environmental Impact Statement including open public hearings and an adequate public comment period prior to authorizing any activities involving open-air testing and release of chemical and possible biological agents at the Nevada Test Site. Thank you for your attention to this important matter.

L-14-6

Sincerely,



Robert K. Musil, Ph.D., M.P.H.
Executive Director and CEO
Physicians for Social Responsibility

Response to comment L-14-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-14-2: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-14-3: As described in Section 1.4, NNSA/NSO conducted a public involvement process for this EA including press releases and paid advertisements announcing two public scoping meetings which were conducted in Las Vegas and Pahrump, Nevada. In addition to public scoping, NNSA/NSO coordinated with numerous local, State and Federal officials as described in Section 5.1.

Response to comment L-14-4: The EA addresses low concentration releases of chemical and biological simulants. Within a short distance from the release site concentrations would be below detection limits.

Response to comment L-14-5: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Section 2.1.5.2 of this EA addresses concentrations of chemicals that would be used.

Some of the chemical agents may fall into the categories of herbicides, insecticides or pesticides. However, the chemical agents are not limited to those categories and may include a wide range of chemicals.

Response to comment L-14-6: See response to Comment L-14-1.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

FROM ESHD

(MON) 5.17'04 14:26/ST. 14:20/NO. 4860748639 P 20

Mr. William C. Suiter, NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter,

I'm opposed to the use of chemical and biological agents as weapons by any nation. Naturally, the proposed testing of these agents at the Nevada test site is of great concern to me. I urge you to develop a full Environmental Impact Statement before the testing of chemical or biological agents is initiated.

L-15-1

The Environmental Assessment that was recently submitted is inappropriate. The agents involved aren't even identified, and the analysis is inadequate to guarantee public and environmental safety. It is your mandate to protect our environment and our health, and you cannot achieve this goal without a full Environmental Impact Statement.

L-15-2

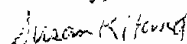
As a resident of Southern Utah, I am familiar with the catastrophic death toll and suffering created by the Nevada Test Site. Though we were regularly assured that the nuclear testing, both above and below ground, was safe, the United States Government subsequently admitted that this was false, and instated the RECA program.

L-15-3

Open air testing of chemical and biological agents cannot be considered a low risk activity, and an environmental assessment simply will not suffice. These tests pose a serious hazard to the environment and the human population. Please do the right thing, and commit to a full Environmental Impact Statement before testing of biological and chemical agents is allowed to begin at the Nevada Test Site.

L-15-4

Sincerely,


Susan K. Hand
884 West Vance
Kanab, Utah
84741

Response to comment L-15-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-15-2: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical

release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

As indicated in Section 3.2.9, with appropriate administrative, access, and test controls in place, there would be no impact to involved and non-involved workers and members of the public.

Response to comment L-15-3: Comment noted.

Response to comment L-15-4: See responses to Comments L-15-1 and L-15-2.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

FROM ESHD

(MON) 5.17'04 14:27/ST. 14:20/NO. 4860748639 P 21

May 14, 2004

To: Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office P.O. Box 98518
Las Vegas, NV 89193-8518
Fax 702-295-0154

From: Utah Democratic Progressive Caucus
P. O. Box 520578
Salt Lake City, UT 84152
435-336-2123

Note: First of six pages

Following this cover sheet you will find our comments regarding the Pre-decisional Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site. In addition, a hard copy of these comments has been mailed and should be received by your office by Monday, May 17, 2004.

Utah Democratic Progressive Caucus

P. O. Box 520578 Salt Lake City, UT 84152-0578

May 14, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter:

The Utah Democratic Progressive Caucus (UDPC) appreciates this opportunity to comment on the Pre-decisional Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site, hereafter referred to simply as the Environmental Assessment or EA. We request you add the UDPC to the mailing list to receive additional NEPA materials released from your office regarding this proposed action. In addition, we request you add the UDPC to your NEPA mailing list to receive future scoping letters or other requests for public comment released by your office in the future.

The UDPC has a number of concerns with the potential impacts to the environment associated with the proposed action and action alternatives outlined within the EA. The EA fails to meet the mandate of the National Environmental Policy Act (NEPA), the Migratory Bird Treaty Act (MBTA), Endangered Species Act (ESA) and other laws and regulations governing the protection of the environment. In light of these failings, the UDPC requests you adopt the no action alternative. If the government is intent on moving ahead with the proposed action, the UDPC believes and will show in these comments an environmental impact statement (EIS) is necessary.

L-16-1

The Draft Pre-Approval EA fails to meet the mandate of NEPA:

"Cumulative impact" is defined within the NEPA regulations as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonable foreseeable future action regardless of what agency (Federal or non-F 40 C.F.R. § 1508.7

Draft EA, page 3-16. Emphasis addedederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." The EA itself recognizes and reinforces the definition of cumulative effects. "Cumulative effects are the consequences of multiple impacts, each of which could be insignificant, but when taken together, become potentially significant."

1. 40 C.F.R. § 1508.7
2. Draft EA, page 3-16. Emphasis added

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

While the EA dismisses the potential for significant impacts to plants, wildlife, soils and water quality resulting from any of the action alternatives, the analysis limits itself entirely to possible consequences to these resources resulting from the release of chemical or biological agents. There is absolutely no discussion within the EA of the cumulative impact to these resources resulting from the history of extreme activity on the Nevada Test Site (NTS), namely nuclear testing.

Assuming for the sake of argument the conclusions within the EA regarding the insignificance of impacts associated specifically with this action are correct, the EA still completely ignores possible cumulative effects associated with biological/chemical testing activities and the NTS' long history of significant atomic testing. The most attention this issue receives is found on page 3-17 of the EA where avoidance of past nuclear testing areas in order to reduce/eliminate potential for radioactive dust disturbance is mentioned.

L-16-2

The Department of Energy (DOE) is well aware of the impacts past nuclear testing has had on human health across the United States. Many of the residents of counties immediately downwind of the NTS are included in the national compensation program for victims of cancers linked to nuclear testing. Therefore, it can hardly be argued nuclear testing did not have an impact on the plants, wildlife and other resources of the NTS. As the above cited NEPA regulations make clear, the cumulative impact of this past activity when combined with the proposed action cannot be ignored, even if we assume the impact(s) of the proposed action are insignificant by themselves.

The EA also ignores a specific request by the US Fish and Wildlife Service to include a detailed analysis of impacts to the desert tortoise and migratory bird species. In their response during the initial scoping period for this project, the US Fish and Wildlife stated "Direct and indirect effects from the proposed activities to the desert tortoise, migratory birds, and sensitive species in Nevada **fully considered and evaluated** in the EA."³ Nowhere does the EA provide a list of migratory birds suspected or known to exist within the NTS or immediately downwind from the Hazmat Spill Center (HCS) or sites where releases could take place. Nowhere does the EA discuss in detail the results of past monitoring completed following similar activities conducted in the past, though we are assured such monitoring has taken place.

L-16-3

With regard to the Desert Tortoise, a threatened species protected under the ESA, the EA states any tortoises discovered prior to initiation of a chemical or biological release will be relocated.⁴ However, the potential impacts of relocation on these animals receive absolutely no discussion. This is a significant potential impact of the proposed action which NEPA requires and should get at least some attention within the cumulative effects analysis.

L-16-4

In addition to failing to specifically discuss direct/indirect cumulative effects to specific species, the EA fails to disclose which chemicals it plans to employ during the proposed tests. In fact, the National Nuclear Safety Administration/Nevada Site Office (NNSA/NSO) claim they don't yet know which chemicals they plan to utilize. "NNSA/NSO does not know which specific chemicals could be required for testing or training. Therefore, rather than compile an exhaustive list of possible chemicals that could be released, NNSA has developed detailed criteria for chemical release events that would be protective of the environment, workers and the public."⁵

L-16-5

³ Draft EA, Appendix A. Emphasis added

⁴ Draft EA, page 3-8.

⁵ Draft EA, pages 2-1 and 2.

In its comments regarding this project, the US Fish and Wildlife Service made abundantly clear the biological agents actually or potentially planned for use during testing would be essential to fully considering impacts to natural resources under their jurisdiction. The Fish and Wildlife Agency states "...it would be important to know specific details on the various biological materials, including their persistence in the exposed environment, to assist in determining potential effects to [threatened, endangered and sensitive] species."⁶ The logic of needing detailed information about biological agents in order to fully evaluate impact also extends to chemical agents in which wildlife and humans could be exposed.

In failing to provide any information regarding chemical agents, presumably because the government itself does not yet know which chemicals it will employ, the public is denied a critical opportunity to comment upon potential impacts. Among the purposes of NEPA is the collection of data which could be critical to the decision maker in reaching his/her decision. "The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences and take actions that protect, restore, and enhance the environment." Furthermore, "NEPA procedures must insure that environmental information is available to public officials and citizens **before** actions are taken. The information **must be of high quality**. Accurate scientific analysis, expert agency comments, and public scrutiny is essential to implementing NEPA."⁷

L-16-5

In order for the NNSA/NSO to be in compliance with NEPA, the chemicals actually or potentially planned for use under any action alternative must be disclosed. The EA must disclose the potential direct and indirect impacts of these chemicals. In addition, the public must have an opportunity to consider the effects of these agents for themselves and provide additional information for consideration should it be available.

The Draft Pre-Approval EA fails to meet the mandate of the MBTA and ESA

Over the course of the 20th century the United States entered into several conventions "for the protection of migratory birds and birds in danger of extinction, and their environment..." The first of these was the Migratory Bird Treaty of 1918.⁸ In January of 2001 President Clinton signed Executive Order (EO) 13186 stating in part, "These migratory bird conventions [1916, 1936, 1972 & 1978] impose substantive obligations on the United States for the conservation of migratory birds and their habitats, and through the Migratory Bird Treaty Act (MBTA), the United States has implemented these migratory bird conventions with respect to the United States."⁹

EO 13186 specifically requires federal agencies to "ensure that environmental analyses of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern."¹⁰ Furthermore, the Executive Order imposes the following requirement on agencies:

⁶ Draft EA, Appendix A.

⁷ 40 C.F.R. § 1500.1. Emphasis added

⁸ 16 U.S.C. § 703

⁹ EO 13186 § 1

¹⁰ EO 13186 § 3 (e)(6)

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

*Identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service (USFWS). These principles, standards, and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within the agency's capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts.*¹¹

As mentioned earlier in these comments, the EA fails completely to include any discussion of impacts to migratory birds short of mentioning they exist in the area and concluding, without providing any supporting evidence, they will not be adversely impacted. The above statement makes clear it is the policy of the United States government to disclose even "unintentional take" caused by government actions. Mitigation of both intentional and unintentional impacts to migratory bird species is crucial to compliance with the MBTA. In this case, the NNSA/NSO has completely failed to meet this mandate.

L-16-6

With regard to the threatened desert tortoise protected by the Endangered Species Act, the current EA also does not meet the mandates of current law and regulation as expressed under the Endangered Species Act. The Endangered Species Act (ESA) declares as its purpose "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved [and] to provide a program for the conservation of such species" 16 USC Sec. 1531(b). Congress has provided further direction to federal agencies to use "all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary."¹² The ESA not only prohibits Federal agencies from taking actions that are likely to jeopardize the continued existences of endangered and threatened species, but also affirmatively requires that they "shall seek to conserve endangered species and threatened species".¹³

L-16-7

While the EA states any desert tortoise located in an area where biological or chemical agent testing is being planned will be relocated, the stress of relocation or past success relocation efforts receive no discussion. Furthermore, the impacts of past nuclear testing and chemical/biological agent activities are likewise completely ignored. The NNSA/NSO cannot reasonably argue it is complying with the mandate of the ESA expressed above given the failure to deal at all with these important issues.

Conclusion:

The importance of the ESA, MBTA and other environmental laws and regulations goes far beyond the important goal of protecting wildlife. The species covered by these laws are important indicators of the health of the environment upon which we all depend. In failing to even outline the results of past monitoring of these resources or impacts past significant activities have had on them, the government is repeating a history of irresponsibility that dates back to the

L-16-8

¹¹ EO 13186 § 3 (e)(9)

¹² 16 USC Sec. 1532(3)

¹³ 16 USC 1531(c)(1); 1536(a)(2).

beginning of the nuclear testing era. The important role of monitoring and disclosure in preventing the death and illness experienced by those living downwind from the NTS from revisiting the current and future generations cannot be understated. In failing to take these laws seriously, the government is demonstrating once again a disregard for the well being of those it represents.

L-16-8

In failing to provide information regarding chemicals which may be used, the locations where tests are being planned, or the results of resource monitoring the EA fails to provide both the public and the decision maker with sufficient information to adequately address threats to public and environmental health which may or actually exist. In light of Utah's past history with the federal government on issues such as the one under consideration here, the UDPC's members and other Utahns cannot reasonably be expected to simply take the government's word for it when it comes to open air chemical/biological agent testing. Until the NNSA/NSO can provide more details than it has in this document, the no action alternative is the only legal and responsible option available to the government.

L-16-9

Sincerely,



Craig Axford
Co-Chairs, Utah Democratic Progressive Caucus



Laura Bonham

Response to comment L-16-1: Appendix B describes how NNSA/NSO will comply with all applicable statutes and regulations, including NEPA, MBTA, and ESA. NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-16-2: Section 3.6 of this EA has been expanded to more fully address cumulative effects. Between 1952 and 1992, a total of 928 nuclear tests were conducted at the NTS; 100 atmospheric and 828 underground. Although there were a few underground tests that resulted in radioactive contamination on the surface, the majority of those tests resulted in no surface contamination. For this reason, there is little impact to NTS flora and fauna from residual radioactive contamination. The NTS flora and fauna have been well characterized, protected and monitored. Due to limited access by the public, the flora and fauna of the NTS are in many ways less impacted than nearby public lands.

Response to comment L-16-3: The 1996 NTS EIS includes a listing of all species known to occur on the NTS. Releases of chemicals or biological simulants during breeding season would be preceded by pre-activity surveys to search for active bird nests. The text in Section 3.2.7.1 has been revised to state that releases will not be conducted in areas where active nests are located. Regarding the concern that chemicals or biological simulants might reduce the abundance of food items (e.g., insects, rodents, plants) of birds, the proposed releases are expected to impact small areas and any given area would typically not be exposed to multiple releases (see third paragraph of Section 3.2.7.1). Thus, potential impacts due to reduced prey populations would be expected to be negligible. For tests that would include the release of chemicals or biological simulants that could persist in the environment for more than a few weeks, a remediation plan would be developed

and implemented in coordination with the U.S. Fish and Wildlife Service.

Response to comment L-16-4: A Biological Opinion issued in 1996 by the U.S. Fish and Wildlife Service for NTS activities (File No. 1-5-96-F-33) describes procedures for protecting the desert tortoise during activities conducted by NNSA/NSO. The second paragraph of Section 3.2.7.1 has been revised to state that activities associated with releases of chemicals and biological simulants will be conducted in accordance with the 1996 or subsequent Biological Opinions, and states that if pre-activity surveys determine that desert tortoises occur in the release area, appropriate mitigation measures will be implemented in compliance with the Biological Opinion.

Section 3.2.7.1 has been revised to state that mitigation activities will be in accordance with the 1996 or subsequent Biological Opinions issued by the U.S. Fish and Wildlife Service.

Response to comment L-16-5: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-16-6: See the response to comment L-16-3.

Response to comment L-16-7: See the response to comment L-16-4.

Response to comment L-16-8: See response to L-16-1.

Response to comment L-16-9: The issues summarized in this paragraph are addressed in the responses to L-16-1 through L-16-8.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17'04 14:25/ST. 14:20/NO. 4860748639 P 15

Mr. William C. Suiter
NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

May 10, 2004

Dear Mr. Suiter,

I am a concerned citizen writing to ask that you please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-17-1

The recently completed Environmental Assessment is woefully inadequate. It fails to fully identify the agents that will be involved and it does not provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-17-2

During four decades of nuclear testing at the Nevada Test Site, Americans were constantly told that the tests were safe. That proved false, as even the United States Government admits through its RECA program.

L-17-3

An Environmental Assessment may be appropriate for certain low risk activities, but open air testing of Chemical and Biological agents raises the spectre of serious consequences for people and the environment.

L-17-4

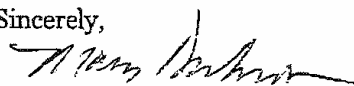
Given the deadly history of the Nevada Test Site, it seems only reasonable that all current and future activities there receive a thorough study accomplished through a full Environmental Impact Statement.

L-17-5

As citizens of Utah who are downwind of the Test Site, we insist on a full Environmental Impact Statement before any testing is seriously considered.

L-17-6

Sincerely,



Mary Dickson
417 8th Avenue
Salt Lake City, Utah 84103

Response to Letter L-17: See the response to
Letter L-8.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17' 04 14:25/ST. 14:20/NO. 4860748639 P 16

Mr. William C. Suiter
NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter,

Please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-18-1

The recently completed Environmental Assessment is woefully inadequate. It fails to fully identify the agents involved and doesn't provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-18-2

During the years of nuclear testing, both above and under ground, we were constantly told that the tests were safe. That proved false, as even the United States Government admits through its RECA program.

L-18-3

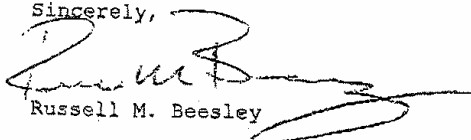
An Environmental Assessment may be appropriate for certain low risk activities, but open air testing of Chemical and Biological agents raises the spectre of serious consequences for people and the environment.

L-18-4

Given the deadly history of the Nevada Test Site, it seems only reasonable that its current and future activities receive the thorough study accomplished through a full Environmental Impact Statement.

L-18-5

Sincerely,


Russell M. Beesley

53 S. 200 E.
Kanab, UT 84741

Response to Letter L-18: See the response to
Letter L-8.

FROM ESHD

(MON) 5.17'04 14:26/ST. 14:20/NO. 4860748639 P 17

Tamara Berry
1201 S Red Cliffs Drive
Kanab, Utah 84741
(435) 644-2802

May 11, 2004

Mr. William C. Suiter
NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter,

Please conduct a full Environmental Impact Statement before considering testing
Chemical or Biological agents at the Nevada Test Site.

L-19-1

The recently completed Environmental Assessment is woefully inadequate. It fails to
fully identify the agents involved and doesn't provide the depth of analysis necessary to
guarantee public and environmental safety in the event of any subsequent chemical or
biological tests.

L-19-2

During the years of nuclear testing, both above and under ground, we were constantly
told that the tests were safe. That proved false, as even the United States Government
admits through its RECA program.

L-19-3

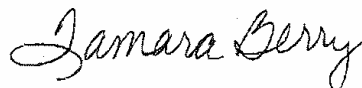
An Environmental Assessment may be appropriate for certain low risk activities, but
open air testing of Chemical and Biological agents raises the spectre of serious
consequences for people and the environment.

L-19-4

Given the deadly history of the Nevada Test Site, it seems only reasonable that its current
and future activities receive the thorough study accomplished through a full
Environmental Impact Statement.

L-19-5

Sincerely,



Tamara Berry

Response to Letter L-19: See the response to
Letter L-8.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17' 04 14:26/ST. 14:20/NO. 4860748639 P 18

THOMAS FORSYTHE
6178 E. Zion Rd
Kanab, UT 84741
Ph: 435-644-3412 forsythe@kanab.net

May 12, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter:

Please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-20-1

The recently completed Environmental Assessment is woefully inadequate. It fails to fully identify the agents involved and doesn't provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-20-2

During the years of Nuclear explosions, both above and under ground, we were constantly told that the tests were safe. That proved false, as even the United States Government admits through its RECA program.

L-20-3

An Environmental Assessment is used only as a short hand. It may be appropriate for certain low risk activities, but open air tests of chemical and biological agents raise the spectre of serious consequences for people and the environment.

L-20-4

Given the deadly history of the Nevada Test Site, it only seems reasonable that its current and future activities receive the thorough study accomplished through a full Environmental Impact Statement.

L-20-5

Sincerely,


Tom Forsythe

Response to Letter L-20: See the response to
Letter L-8.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

FROM ESHD

(MON) 5.17'04 14:26/ST. 14:20/NO. 4860748639 P 19

May 10, 2004

Mr. William C. Suiter
NEPA Documents Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter,

Please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-21-1

The recently completed Environmental Assessment is woefully inadequate. It fails to fully identify the agents involved and doesn't provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-21-2

During the years of nuclear testing, both above and under ground, we were constantly told that the tests were safe. That proved false, as even the United States Government admits through its RECA program.

L-21-3

An Environmental Assessment may be appropriate for certain low risk activities, but open air testing of Chemical and Biological agents raises the specter of serious consequences for people and the environment.

L-21-4

Given the deadly history of the Nevada Test Site, it seems only reasonable that its current and future activities receive the thorough study accomplished through a full Environmental Impact Statement.

L-21-5

Sincerely,



Jan Lovett
4948 West Cinnamon Wood Lane
South Jordan, Utah 84095

Response to Letter L-21: See the response to
Letter L-8.

May 8, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

Please conduct a full Environmental Impact Statement before considering testing
Chemical or Biological agents at the Nevada Test Site.

L-22-1

The recently completed Environmental Assessment is woefully inadequate. It fails to
fully identify the agents involved and doesn't provide the depth of analysis necessary to
guarantee public and environmental safety in the event of any subsequent chemical or
biological tests.

L-22-2

During the years of nuclear explosions, both above and under ground, we were constantly
told that the tests were safe. That proved false, as even the United States Government
admits through its RECA program.

L-22-3

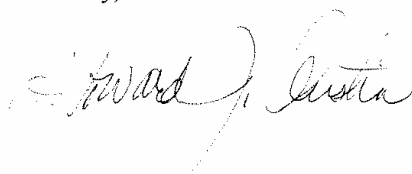
An Environmental Assessment is used only as a short hand. It may be appropriate for
certain low risk activities, but open air tests of Chemical and Biological agents raise the
specter of serious consequences for people and the environment.

L-22-4

Given the deadly history of the Nevada Test Site, it only seems reasonable that its current
and future activities receive the thorough study accomplished through a full
Environmental Impact Statement.

L-22-5

Sincerely,



Response to Letter L-22: See the response to
Letter L-8.

May 9, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

It has been brought to my attention the U.S. government has made public notice to begin open-air testing of chemical and biological agents at the Nevada Test Site. As a concerned citizen, I feel there is a very strong need to study this further in a Full Environmental Impact Statement (EIS) before any such testing begins.

L-23-1

I am a concerned citizen of the U.S., and I strongly object to this plan!

I grew up in Dugway Proving Grounds, Utah, and was diagnosed with ovarian cancer at age 17! I feel strongly that a lot of my health problems, and my friends' health problems, came from the testing done at DPG.

L-23-2

I beg of you... please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-23-3

Sincerely,



Melissa D. Chesley
305 Crestview Dr.
Park City, UT 84098

Response to comment L-23-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be

required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-23-2: Comment noted.

Response to comment L-23-3: See response to L-23-1.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494



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Health
Environmental
Coalition

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Mr. William C. Suiter
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

May 12, 2004

Dear Mr. Suiter:

CHEC, Children's Health Environmental Coalition, is a national non-profit organization. We are concerned that the drafted environmental assessment (DOE/EA-1494) for the planned testing and release of chemical and biological agents does not seem to sufficiently protect children living outside the authorized release boundaries.

CHEC's mission is to inform all those concerned with the welfare of children about preventable health and development problems caused by exposures to toxic substances in homes, schools and communities and to encourage the public to take action to protect children against these toxic threats. We are concerned about the exposure of all children in America to toxic chemicals and the associated health risks. We want the air they breathe, the water they drink, the surfaces they touch, the food they eat, to be as safe and pure as possible.

Scientists postulate that exposure of children to environmental influences may be related to immune system dysfunction and chronic disease. Chronic diseases such as cancer, asthma, diabetes and Parkinson's disease have been associated with environmental problems such as drinking water contamination, air pollution and exposure to toxic chemicals.

How does the current environmental assessment draft address the potential for low level exposure in terms of the special vulnerability of children and pregnant women, who may live downwind of the testing sites? The exposure level values in the draft, based on healthy adult males, fail to address potential threat of harm to the fetus, infant or young child. This precious subset of our population is most vulnerable to exposure because of potential injury to developing organ systems. Protection of the fetus requires protection of pregnant women and nursing women, since many of these chemicals cross the placenta, the blood-brain barrier, and are excreted in human milk. Behaviors unique to small children, such as crawling, mouthing objects and sucking on their fingers and hands, increase their potential exposure to any contaminants. Their developing body systems are less efficient at metabolizing and excreting dangerous chemicals. Therefore, even at very low levels combinations of these toxins can be hazardous to their health.

Pesticides, insecticides and herbicides are poisons. Families living downwind of release sites could potentially be exposed in their homes, yards, playgrounds, day care settings and schools.

CHEC asks you to consider a full Environmental Impact Study that takes into account these public environmental health questions.

Sincerely,

Elizabeth Hauge Sword
Executive Director

L-24-1

L-24-2

L-24-3

L-24-4



a member of Earth Share

Response to comment L-24-1: While the EA states that biological simulants used in tests might travel beyond the NTS boundaries, it also states that the bacterial simulants already exist in the normal flora and fauna, both onsite and offsite. The proposed viral simulants have not demonstrated adverse human health effects. Plume dispersion characteristics indicate that simulant concentrations would be below permissible exposure limits at the outer test perimeter and below detection limits at the nearest non-occupational receptor point. The addition of non-detectable quantities of these simulants to offsite receptors should not result in impacts to children living outside of the authorized release boundaries.

Chemical concentrations are required to be less than the applicable occupational guidance level (TLV, REL, or PEL) at the outer test perimeter of 500 meters. Plume dispersion characteristics indicate that simulant concentrations would be below detection limits at the nearest non-occupational receptor point.

Response to comment L-24-2: It is understood that developing embryo-fetus, and by extension pregnant mothers, are sensitive to biological and

chemical exposures during pregnancy. Additionally, it is understood that children are more susceptible to biological and chemical exposures during their formative years. The proposed bacterial simulants are already present in the flora and fauna to which these individuals are exposed. The viral simulants present no adverse human effects. Both biological and chemical simulants will be controlled in a manner that results in concentrations below detection limits at the nearest non-occupational receptor point.

Response to comment L-24-3: Biological and chemical simulants will be controlled in a manner that results in concentrations below detection limits at the nearest non-occupational receptor point.

Response to comment L-24-4: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

May 8, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

It has come to my attention the U.S. government has made public notice to begin open-air testing of chemical and biological agents at the Nevada Test Site. As a concerned citizen, I feel there is a very strong need to study this further in a Full Environmental Impact Statement (EIS) before any such testing begins.

L-25-1

I am a citizen of the U.S., and I strongly object to this plan!

I live in St. George, Utah, which is located 120 miles north of Las Vegas. I feel that I would be "downwind" again, from any open-air testing done at the NTS.

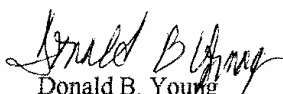
L-25-2

I have had several close friends that died from cancer, who worked at Dugway Proving Grounds, Utah. I still work at Dugway Proving Grounds, and commute to St. George on weekends.

I beg of you...please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-25-3

Sincerely,


Donald B. Young
273 N. Stone Mtn. Dr.
St. George, UT 84770

Response to Letter L-25: See the response to
Letter L-23.

May 8, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

It has come to my attention the U.S. government has made public notice to begin open-air testing of chemical and biological agents at the Nevada Test Site. As a concerned citizen, I feel there is a very strong need to study this further in a Full Environmental Impact Statement (EIS) before any such testing begins.

L-26-1

I AM A CITIZEN OF THE UNITED STATES OF AMERICA AND I OBJECT TO THIS PLAN!

I live in St. George, Utah, which is located 120 miles north of Las Vegas. I feel that I would be "downwind" again, from any open-air testing done at the NTS.


L-26-2

I had several friends that died from cancer, who worked at Dugway Proving Grounds, Utah. I retired from Dugway and moved to St. George, and I again fear for my well-being.

I beg of you...please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-26-3

Sincerely,


Patricia T. Austin
1331 N. Dixie Downs Dr. #133
St. George, UT 84770

Response to Letter L-26: See the response to
Letter L-23.

May 8, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Re: Plans to start open-air testing of Biological and Chemical Agents at Nevada Test Site.

Dear Mr. Suiter:

It has come to my attention the U.S. government has made public notice to begin open-air testing of chemical and biological agents at the Nevada Test Site. As a concerned citizen, I feel there is a very strong need to study this further in a Full Environmental Impact Statement (EIS) before any such testing begins.

L-27-1

I am a citizen of the United States of America, and I object to this plan!

I live in St. George, Utah, which is located 120 miles north of Las Vegas. I feel that I would be "downwind" again, from any open-air testing done at the NTS.

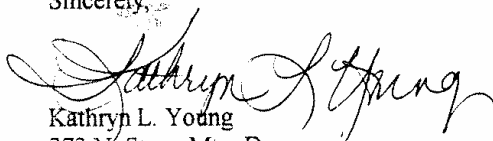
L-27-2

In the past, I have been exposed to many hazardous chemicals; herbicides, and nerve & mustard agents while working at Dugway Proving Grounds. I received a "medical" retirement from the U.S. Government, moved to St. George, but again I begin to fear for my well-being.

I beg of you... please conduct a full Environmental Impact Statement before considering testing Chemical or Biological agents at the Nevada Test Site.

L-27-3

Sincerely,



Kathryn L. Young
273 N. Stone Mtn. Dr.
St. George, UT 84770

Response to Letter L-27: See the response to
Letter L-23.

to: the Nevada test site.

Hi, the testings of viruses and chemical
have a bad influence on Pepole in three
ways. one, it kills all the plants in
which Pepole have no oxygen at all whatsoev
two.... the Pepole will have diseases like
Never before. Three.... Pepole will
also have a slow and painful death....
to make matters worse.

I'm only 9 and I don't have a dad
because of "you" and "you're" testing!
With a virus everybody is downwind.

hope you do not start testing again.

from: Geste Adamsson Vorwaller,

from: Geste Adamsson Vorwaller

TEL 202 596 1118

5.14.04 Sent via FAX (702) 295-0154

L-28-1

L-28-2

L-28-3

L-28-4

L-28-5

Response to comment L-28-1: Although tests may cause temporary adverse impacts to small areas, all plants in exposed areas will not be killed. Flora and fauna in any given area would typically not be exposed to multiple releases and therefore, better able to recover from any potential adverse impacts.

Response to comment L-28-2: The selected biological simulants have not been shown to demonstrate pathogenicity (i.e., to cause illness) in humans. Chemical concentrations in the accessible test area will be maintained at or below applicable regulatory occupational limits. Both biological and chemical simulants will be

controlled in a manner that results in concentrations below detection limits at the nearest non-occupational receptor point.

Response to comment L-28-3: No adverse effects, much less fatalities, are projected from activities carried out under the proposed action.

Response to comment L-28-4: The EA addresses low concentration releases of chemical and biological simulants. Within a short distance from the release site concentrations would be below detection limits.

Response to comment L-28-5: Comment noted.

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

DOE/EA-1494

May 14, 2004

U.S. Department of Energy -National Nuclear Security Administration
Nevada Site Office - Office of Public Affairs
P.O. Box 98518
Las Vegas, NV 89193-8518

Attn: Mr. William Suiter

Re: Plans to start open-air testing of Biological/Chemical Agents.

Dear Mr. Suiter:

I was shocked to find out about the possibility that your agency was considering the process of testing Chemical and/or Biological agents at the Nevada Test Site.

I understand that there are many issues that have not been mentioned in DOE/EA #1494. These have to be determined in advance of a "Finding of No Significant Impact."

L-29-1

The security and integrity of Influenza A Virus samples and all other Biological samples is not addressed in this EA and could pose not just a Significant Impact, but a HUGE Impact not just to the Test Site, but to all surrounding environments.

L-29-2

Furthermore, nowhere in the proposal are there listed which Chemical Agents are to be used. It only says: "herbicides, insecticides, and pesticides".

AGENT ORANGE has been classified by chemical and by Treaty definition as an "herbicide".

Please understand that I am concerned that there will be quite significant impact from "explosive releases" of Agent Orange.

L-29-3

And VX gas can be likewise considered an "insecticide" by chemical and Treaty definition. (organophosphates- various combinations of phosphorus with alcohols and/or phenols.)

Please know that "pesticides" include Arsenic which can cause great injury to wildlife such as small rodents (e.g., squirrels and prairie dogs) We need more information.

I could continue on and on, especially my concerns to humans (particularly for downwind Pregnant and/or Nursing Women, Children, the Elderly, and the Chronically Ill). I hereby request that a full-scale Environmental Impact Study/Statement be undertaken before the proposed open-air Chemical and Biological Agent testing can begin.

L-29-4

Sincerely,



Mr. Charles P.H. Scurich, Concerned U.S. Citizen
55 Spyglass Hill
Oakland, CA 94618
phone: (510)204-918

5.14.04 Sent via USPS guaranteed overnight mail
#EL363469805 U.S.

5.14.04 Sent via FAX (702)295-0154

Response to comment L-29-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-29-2: Access to NTS is controlled to preclude unauthorized entrance. Additional security will be provided as needed. All biological simulants brought onto the NTS will be afforded an appropriate level of security.

Response to comment L-29-3: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Section 2.1.5.2 of this EA addresses concentrations of chemicals that would be used.

As noted in Section 2.1 of this EA, the chemicals that would be used under the proposed action may simulate a chemical weapon or may be an expected emission or effluent from a chemical weapons production facility or other process or facility type of interest. In order to further clarify this point,

Section 2.1 has been revised to indicate that in no case would a toxic chemical listed in Schedule 1 or Schedule 2 of the Chemical Weapons Convention be used as part of any releases conducted at the NTS. Some of the chemical agents may fall into the categories of herbicides, insecticides or pesticides. However, the chemical agents are not limited to those categories and may include a wide range of chemicals.

Response to comment L-29-4: While the EA states that biological simulants used in tests might travel beyond the NTS boundaries, it also states that the bacterial simulants already exist in the normal flora and fauna, both onsite and offsite. The proposed viral simulants have not demonstrated adverse human health effects. Plume dispersion characteristics indicate that simulant concentrations would be below permissible exposure limits at the outer test perimeter and below detection limits at the nearest non-occupational receptor point.

Chemical concentrations are required to be less than the applicable occupational guidance level (TLV, REL, or PEL) at the outer test perimeter of 500 meters. Plume dispersion characteristics indicate that simulant concentrations would be below detection limits at the nearest non-occupational receptor point.

The addition of non-detectable quantities of these simulants to offsite receptors should not result in impacts to pregnant or nursing women, children, elderly, or chronically ill individuals.

See also the response to L-29-1.



DEPARTMENT OF THE AIR FORCE
98th RANGE WING (ACC)
NELLIS AIR FORCE BASE, NEVADA

12 MAY 2004

MEMORANDUM FOR 99 CES/CEV

FROM: 98 RANW/CC
3770 Duffer Drive
Nellis Air Force Base, Nevada 89191-7001

SUBJECT: NNSA Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site

1. Attached are the consolidated 98th Range Wing comments on your draft NNSA Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site.
2. If you have questions, please contact Mr. Roger Schofield, 98 RANW/XPL at 653-4565


ALLEN E. WICKMAN
Colonel, USAF
Commander

Attachment:
98th Range Wing Comments

cc: 99 ABW/CC w/o attachment

1 Power America

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

Comments on the NNSA Draft Environmental Assessment for Activities using Biological Simulants and Releases of Chemicals at the Nevada Test Site - May 04

- | | |
|--|---------|
| 1. Page ES-1, line 44. The purpose NTTR was withdrawn from Public Use is overly generalized. Public Law 106-65 withdrew the NTTR for an armament and high hazard testing area; training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering; for equipment and tactics development and testing. To list the purpose as military gunnery range is over-simplification. | L-30-1 |
| 2. Page ES-3, lines3-6. How will NNSA determine “sufficient time” to permit recovery of natural resources? | L-30-2 |
| 3. Page ES-4, lines 1-2 and 8-12. The first lines indicate no release would adversely affect the desert tortoise, yet lines 8012 indicates, “...some chemicals could...degrade habitat in the immediate area.” This seems to contradict. | L-30-3 |
| 4. Page ES-4, line38-55. This talks to protecting NTS workers but no mention of workers on the NTTR. This can be accomplished by range scheduling and monitoring residual chemicals. | L-30-4 |
| 5. Page ES-5. How/where does NNSA evaluate this proposals impact to DoD accomplishing their mission on the NTTR? | L-30-5 |
| 6. Page 1-1, line 44-46. How/where does NNSA evaluate this proposals impact to DoD accomplishing their mission on the NTTR? | L-30-6 |
| 7. Page 1-1, line 74-75. NTTR acreage is 2, 919, 890 acres. Change “more” and acreage | L-30-7 |
| 8. Page 1-1, line 78-79. NTTR has been NTTR for 4 years, is it necessary to identify it as the former NAFR? | L-30-8 |
| 9. Page 1-2, Figure 1- Why is TTR highlighted (cross hatched)? It is part of the NTTR, drop cross hatching. | L-30-9 |
| 10. Page 2-2, line 1-6, 26-41 and Figure 2-1. The paragraphs and figure clearly show this activity impacts US Fish and Wildlife Service Lands. As such, is DOE required to obtain a land use permit from USFWS for these activities? Since DOE's activities are for non-military use the current USAF MOU with USFWS would not cover DOE use of these lands. | L-30-10 |
| 11. Page 2-2, line 29-30 and 33-35. Line 29-30 states chemical releases will stay within the HSC's boundaries, yet lines 33-35 states chemical releases would not have to meet the HSC predominant wind directions. This indicates the chemical release will go outside the quarter circle shown on Figure 2-1. The expansion of facilities beyond the HSC could have direct impacts to a much larger area of the NTTR and may impact more missions than the current HSC. The proposed airborne releases could have significant impact because of the enlarged footprint of the affected area. | L-30-11 |
| 12. Page 2-4, line77-79. How does NNSA coordinate a customer release that will travel off the NTS, onto the NTTR? It must be more coordination than the DOE LO. | L-30-12 |
| 13. Page 2-5, line 10-11. Can Nellis be part of the team that develops/approves the test and training plan? Can Nellis be an approval stop on the plans that touch the NTTR? | L-30-13 |
| 14. Page 2-5, line 41-42. Can we have a Nellis member on the team for all activities that touch the NTTR? | L-30-14 |

15. Page 2-9, lines 10-13, 21-22 and 32-33. The first lines states NNSA has not identified a model to address aircraft releases of biological simulants, yet lines 32-33 state bio-aerosols would be treated as gases with no settling. Is there a suitable model for bio-aerosols? Does this "point-source" adequately model aircraft release?	L-30-15
16. Page 2-11, line 19-22. How and who will determine the sufficient recovery time?	L-30-16
17. Page 3-1, line 73-74. Change NAFR to NTTR.	L-30-17
18. Page 3-1, line 80-81. What about adding Indian Springs Town? How about addressing the NTTR commercial sites (TTR, O&M, TPECR, ISAFAF)?	L-30-18
19. Page 3-2, lines 16-17. This line states there will be no disturbance yet page 3-3, line 18-19 states "....physical destruction could occur from ground disturbance....".	L-30-19
20. Page 3-8, line 39-41. Could the "area of potential impact" be on NTTR lands? How is this area defined? How will this be coordinated with USFWS and USAF so the impact to tortoises is assessed against the NTTR?	L-30-20
21. Page A-3. Letter form NDEP states that planned releases outside the bounds of the HSC would require an application for modification of the NTS OP. I did not see this specifically addressed. Does their air permit cover releases over the NTTR?	L-30-21

Response to comment L-30-1: The EA has been revised as suggested in the comment.

Response to comment L-30-2: The time between testing will be determined based on the results of post-test environmental monitoring.

Response to comment L-30-3: A Biological Opinion issued in 1996 by the U.S. Fish and Wildlife Service for NTS activities (File No. 1-5-96-F-33) describes procedures for protecting the desert tortoise during activities conducted by NNSA/NSO. The second paragraph of Section 3.2.7.1 has been revised to state that activities associated with releases of chemicals and biological simulants will be conducted in accordance with the 1996 or subsequent Biological Opinions, and states that if pre-activity surveys determine that desert tortoises occur in the release area, appropriate mitigation measures will be implemented in compliance with the Biological Opinion.

Response to comment L-30-4: NNSA/NSO coordinates with the USAF prior to conducting any releases at the HAZMAT Spill Center. It is anticipated that similar coordination would occur for activities under this EA that could affect portions of NTTR.

Response to comment L-30-5: In accordance with established procedures, NNSA/NSO coordinates and deconflicts all NTS activities with DoD.

Response to comment L-30-6: See response to L-30-5.

Response to comment L 30-7: The EA has been revised as suggested in the comment.

Response to comment L-30-8: The EA has been revised as suggested in the comment.

Response to comment L-30-9: The EA has been revised as suggested in the comment.

Response to comment L-30-10: NNSA/NSO does not anticipate using U.S. Fish and Wildlife Service lands as part of the proposed action.

Response to comment L-30-11: Within the HSC's authorized release boundaries (as illustrated in Figure 2-1) releases would not be required to meet the existing HSC predominant wind direction criteria if the test documentation can demonstrate that the release concentrations do not exceed the PEL, REL, or TLV values for chemicals or 5 mg/m³ for biological simulants at the HSC's authorized release boundaries. For releases conducted outside of the HSC's authorized release boundaries, concentrations at the NTS border would be at or below PEL, REL, or TLV for chemicals or 5 mg/m³ for biological simulants. Airborne release criteria have been clarified to reflect that beyond 500 meters (1,640 feet) from any release line from point "a" to point "b" the concentrations of chemicals or biological simulants would not exceed the applicable values stated above. Section 2.1.5 of this EA has been revised to clarify these limits.

NNSA/NSO has coordinated this response with Nellis Air Force Base and NTTR personnel and they concur that the proposed action would not result in a significant impact to Air Force interests.

Response to comment L 30-12: Each test is coordinated through the NTS Site Operations Center with NTTR scheduling.

Response to comment L-30-13: The U.S. Air Force is a member of the Project Advisory Panel for the HSC and it is anticipated that they will be a part of the panel for activities under this EA. According to the official United States Air Force Liaison Office website, "The U.S. Air Force Liaison Office is the Headquarters focal point for coordinating program activities between the U.S. Department of Energy and the Air Force at the Nevada Test Site, the Nevada Test and Training Range, and the Tonopah Test Range to minimize adverse impacts while sharing resources for the continued efficient, effective accomplishment of research, development, testing, and training in support of respective programs to further the national defense missions." As such, the Air Force Liaison Office sits on the Project Advisory Panel. A representative from the NTTR has been invited

to participate on the Project Advisory Panel for coordination purposes.

Response to comment L-30-14: In regards to activities described in this EA, see response to L-30-13. All other NTS activities fall outside the scope of this document.

Response to comment L-30-15: In all cases, the selection of an appropriate air quality dispersion model to determine the impact of emissions is made after the consideration of several factors. These factors include source characteristics and parameters, meteorological and topographical complexities of the area, level of detail and accuracy needed for the analysis, the resources available, and the detail and accuracy of available data. At this time, a detailed description of these factors is not available from release customers or the NNSA. However, when the specific test parameters and conditions are defined, NNSA will be able to evaluate these factors in conjunction with the library of air quality dispersion models that are currently available for evaluating impacts from sources of aerosol emissions. For bio-aerosol emissions, it is assumed to include aerosols having an aerodynamic diameter of 10 microns or less, which would tend to remain airborne for an extended period of time and travel a great distance before being deposited on the surface of the earth.

Appendix A of the U.S. EPA Guidelines on Air Quality Models contains a listing of preferred air quality models that can be used to address the impact of aerosol emissions. These air quality models are capable of addressing a variety of source types (point, area, volume and line sources) and allow the user to input site-specific data regarding the source release and characteristics. For example, these models allow the user to specify the release height and initial plume size (horizontal and vertical dispersion coefficients). By using the options available with each model, it is possible to adapt the release scenario for a particular test condition. However, the decision regarding the appropriateness of a particular model should be made by personnel having a sufficient level of technical expertise. As a result, it is possible

that the existing library of preferred models can be used to address bio-aerosols.

In the case of aircraft releases, a point source model represents only one potential option for simulating this release scenario. Depending on site-specific conditions of the aircraft release, it may be possible to adequately model emissions using a series of volume or line sources. In addition, the modeling protocol for the analysis could include other conservative assumptions (i.e., dispersion coefficients, release height, meteorological conditions, etc.) in order to project a worst-case impact scenario. Once again, the decision regarding the appropriateness of an air quality model should be made by technically competent personnel after a thorough review of the test scenario, release parameters, site conditions, and the available database of air quality models.

Response to comment L-30-16: The time between testing will be determined by NNSA/NSO based on the results of post-test environmental monitoring.

Response to comment L 30-17: The EA has been revised as suggested in the comment.

Response to comment L-30-18: The EA has been revised as suggested in the comment.

Response to comment L-30-19: The text on Page 3-2 is referring to land disturbance from construction; while the text on Page 3-3 refers to temporary land disturbance associated with travel off existing roads. Section 3.2.1.2 has been revised to clarify this issue.

Response to comment L-30-20: Currently, NNSA/NSO coordinates with the USAF prior to conducting any releases at the HAZMAT Spill Center. NNSA/NSO will initiate consultation with DNWR to establish appropriate coordination procedures. Figure 2-1 has been revised to show that areas of potential impact could be on NTTR land. The U.S. Fish and Wildlife Service and the U.S. Air Force will be contacted prior to release of chemicals or biological simulants on NTTR lands. Pre-activity surveys, coordinated with USAF and

USFWS, as appropriate, will serve to determine the presence of desert tortoises.

Response to comment L-30-21: NNSA/NSO has an approved Air Quality Operating Permit that addresses emissions at the HSC.

CITIZENS EDUCATION PROJECT

May 5, 2004

Mr. William Suiter
NEPA Document Manager
National Nuclear Security Administration
P.O. Box 98518
Las Vegas, NV 89193

Dear Sir:

The Citizens Education Project, a Salt Lake City-based nonprofit organization dedicated to informing the public on issues of social and economic justice, submits the following comments on the Preapproval Draft Environmental Assessment for Activities Using Biological Simulants and Releases of Chemicals at the Nevada Test Site.

We have a number of concerns about the programs and activities proposed in this EA, which collectively argues for preparation of a full EIS for what is certainly a major federal action with significant potential impacts.

L-31-1

First, we question the assertion that this expansion of Nevada Test Site-based programs is vital to the NNSA. The EA contains no documentation of the need to test with biological agent simulants and chemicals at NTS, merely a statement that such testing is needed. There is no documented increase in demand from agencies or contractors for access to NTS locations and facilities under the "Work for Others" program to be found in the EA.

Operational testing has been done extensively in the past, both inside secure laboratories and in the open air at other locations, and such testing continues today. It appears to us that this program would duplicate missions carried out at other government installations such as the U.S. Army Dugway Proving Ground, which have a greater institutional capacity and infrastructure to conduct such testing. Since the EA proposes that only two new employees would be needed to accommodate the testing proposed, the capacity of NTS to implement operational testing with these agents would seem not to be greatly enhanced, at least in the short term. Without further analysis and explanation of the need for additional testing and additional capacity at NTS to perform this testing, this proposal raises the question of whether it is primarily a matter of "mission creep".

L-31-2

We question why the NNSA failed to consider as a separate alternative testing at other locations. Certainly some, if not all, of the proposed tests could be accommodated at other installations and facilities. To fail to examine those options through a comparative analysis undermines the value and credibility of the EA and leads us to wonder if the

L-31-3

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

decision to proceed with these activities has already been made. A full EIS should examine other options as an alternative to the proposed action.	L-31-3
Insufficient information is provided on the NTS locations to be used for proposed tests. Without greater specificity on test locations, it is impossible to determine localized environmental impacts. This is particularly true for tests involving dispersal of agent or agent simulant from mobile sources like aircraft or ground transports. The EA states that suspended aerosols could move off NTS. Specifying locations of tests, especially test locations near NTS boundaries where the likelihood of off-site contamination is greater, is essential so that impacts could be predicted, mitigated, or eliminated.	L-31-4
The EA also contains insufficient information on the potential impacts to migratory birds.	L-31-5
The EA does not specify what chemicals would be used in any of the proposed tests, making it impossible for a reviewer to speculate on potential impacts. A full EIS should provide a list of chemicals which may be used in future tests.	L-31-6
The cumulative impacts analysis (p. 3-16) does not address potential impacts, conflicts, and incompatibilities involving other programs and missions at NTS. A full EIS should address these impacts.	L-31-7
Lastly, there is very little information provided on the proposed use of non-infectious or "killed" Influenza A virus. It is important to know how the virus is to be killed, and where it will be killed (e.g. on-site at NTS or at another location).	L-31-8
A full EIS should address these issues before a record of decision is made to proceed with these activities.	L-31-9

Respectfully,



Steve Erickson, director
Citizens Education Project
444 Northmont Way
Salt Lake City, UT 84103
9801) 554-9029
Erickson.steve1@comcast.net

Response to comment L-31-1: NNSA/NSO will evaluate this EA to determine if it is appropriate to issue a Finding of No Significant Impact (FONSI). If the analysis in the EA does not support the issuance of a FONSI, a full Environmental Impact Statement (EIS) will be required to evaluate the proposed actions or the no-action alternative will be selected.

Response to comment L-31-2: Following the terrorist attacks of September 11, 2001 there was a recognized need by DOE, NNSA, and many other federal agencies and the military for increased levels of operational testing, contamination and decontamination testing, forensics testing, PPE testing, enclosed environment detection and decontamination training, and counter-terrorism training as they relate to biological and chemical agents. A critical step in development of detection instrumentation, decontamination techniques, and operational methods is to conduct tests, experiments, and training in scenarios as close-to-real as possible. The NTS provides a remote and secure setting, facilities, infrastructure, terrain, and other features that accurately simulate the kinds of environments that could be encountered in the “real world.”

As part of its role in national security, and in support of national counterterrorism and counterproliferation goals, NNSA/NSO proposes to provide facilities, infrastructure and support at the NTS for tests, experiments, and training that require releases of biological simulants and low concentrations of chemicals.

Response to comment L-31-3: As stated in Section 1.2 of this EA, NNSA enabling legislation describes the Congressionally-authorized responsibilities of the agency. These include “[d]etecting the proliferation of weapons of mass destruction worldwide” (50 U.S.C. 2405). A part of the NNSA mission is to develop, demonstrate, and deliver technologies and systems to improve domestic defense capabilities and, ultimately, to save lives in the event of a chemical or biological attack. NNSA is responsible for national programs to detect proliferation of, and to reduce and counter threats from weapons of mass destruction

(nuclear, biological, and chemical weapons [WMD]).

The NTS is the only appropriate DOE/NNSA site suitable to meet the mission requirements due to its remote and secure setting, facilities, infrastructure, varied terrain, security and other features that accurately simulate the kinds of environment that could be encountered in the real world.

Response to comment L-31-4: NNSA/NSO has developed a process outlined in Sections 2.1.4 and 2.1.5 of this EA for siting, conducting, and monitoring proposed tests on the NTS. For each proposed test, a test plan would be prepared, reviewed, and approved by the Project Advisory Panel. Only after review and approval of the Test Plan by the Panel would the customer be allowed to conduct a release. The Panel would have the authority to deny, approve, or recommend modification to the customer based on human health, safety, and environmental protection considerations. The Panel has as part of its’ formal charter a defined process and criteria for release approval. Pre-activity ecological surveys of potential test sites would ensure that biological resources, particularly sensitive and protected species, such as the desert tortoise and migratory birds, would not be unduly impacted by releases. Post-activity monitoring would ensure that any potential long-term impacts could be remediated.

Response to comment L-31-5: Releases of chemicals or biological simulants during breeding season would be preceded by pre-activity surveys to search for active bird nests. The text in Section 3.2.7.1 has been revised to state that releases will not be conducted in areas where active nests are located. Regarding the concern that chemicals or biological simulants might reduce the abundance of food items (e.g., insects, rodents, plants) of birds, the proposed releases are expected to impact small areas and any given area would typically not be exposed to multiple releases (see third paragraph of Section 3.2.7.1). Thus, potential impacts due to reduced prey populations would be expected to be negligible. For tests that would include the release of chemicals or biological simulants that

could persist in the environment for more than a few weeks, a remediation plan would be developed and implemented in coordination with the U.S. Fish and Wildlife Service.

Response to comment L-31-6: It is impractical to list all the potential chemicals in the EA, instead when a chemical is proposed for a test, the potential impacts of that chemical to the environment will be reviewed to determine if this EA sufficiently addressed all the potential impacts associated with the proposed chemical release. If the impacts have been evaluated the test may be approved, if this specific test analysis indicated that all potential impacts have not been evaluated in an appropriate NEPA document, the test will not be allowed to proceed.

Response to comment L-31-7: NNSA/NSO has revised the cumulative impact analysis to more fully address those impacts. Further, impacts, conflicts, and incompatibilities with other programs and missions at the NTS would be resolved through standard procedures for project coordination and deconfliction.

Response to comment L-31-8: Influenza A virus will be killed by scientifically recognized effective methods, such as irradiation or chemically, prior to shipment to the NTS for testing.

Response to comment L-31-9: See the response to comment L-31-1.

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May 13, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

Dear Mr. Suiter:

I'm writing to you as a citizen of Kane County, Utah, downwind from the Nevada Test Site.

Please conduct a full Environmental Impact Statement before considering the testing or of any other use of Chemical or Biological agents at the Nevada Test Site.

L-32-1

The recently completed Environmental Assessment is inadequate. It fails to fully identify the agents involved and doesn't provide the depth of analysis necessary to guarantee public and environmental safety in the event of any subsequent chemical or biological tests.

L-32-2

An Environmental Assessment is used only as a short hand. It may be appropriate for certain low risk activities, but open air tests of chemical and biological agents raises the possibility of serious consequences for American Citizens on their own soil.

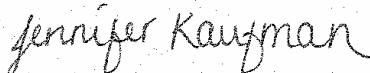
Americans of all ages died as a result of years of open air nuclear testing at the Nevada Test Site. People are still dying today of horrible painful diseases that are just developing as result of exposure to the radioactive fallout that they were told was safe by the United States Government.

L-32-3

Given the deadly history of the Nevada Test Site, it only seems reasonable that its current and future activities receive the thorough study accomplished through a full Environmental Impact Statement.

L-32-4

Thank you,



Jennifer Kaufman

Response to Letter L-32: See the response to
Letter L-8.



NYE COUNTY
DEPARTMENT OF NATURAL RESOURCES & FEDERAL FACILITIES
NATURAL RESOURCES OFFICE

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May 13, 2004

Mr. William C. Suiter
NEPA Document Manager
National Nuclear Security Administration
Nevada Site Office
P.O. Box 98193
Las Vegas, Nevada 89193

Dear Sir:

**Subject: Comments on Preapproval Draft Environmental Assessment for Activities Using
Biological Simulants and Releases of Chemicals at the Nevada Test Site**

These comments are prepared at the direction of the Nye County Board of County Commissioners (BOCC), by a motion passed May 4, 2004. The BOCC recognizes and appreciates the important role of the proposed actions in relation to strategic matters and health and public safety issues. The BOCC has heard testimony from concerned citizens and heard recommendations from specialists in this field. Nye County offers the following recommendations and concerns to provide for greater public safety.

The BOCC recognizes that a few individuals have impaired immune systems or have heightened sensitivity to some biological and chemical agents. Nye County recommends the following additional precautions.

WIND DIRECTION RESTRICTIONS

The BOCC recommends that material releases occur only when the wind direction is from the southeast, south or southwest. This will carry materials away from populated or occupied areas. This recommendation arises from reported cases in which individuals exhibited strong reactions to *Bacillus subtilis* var. *niger* (*B. atrophaeus*) or *B. globigii* (*B. subtilis*). All of these materials have the potential to provoke allergic reaction or an asthma attack in sensitive individuals.

L-33-1

INFLUENZA A RESTRICTIONS

The BOCC recommends that releases of influenza A viruses use the previous year's FDA-approved influenza strain. This recommendation arises from the possibility that RNA from

L-33-2

Letter SuiterW 01.wpd

FINAL ENVIRONMENTAL ASSESSMENT FOR ACTIVITIES
USING BIOLOGICAL SIMULANTS AND RELEASES OF CHEMICALS

Mr. William C. Suter
May 13, 2004
Page 2 of 2

killed virus can recombine with live viruses in cells, possibly in native birds infected with bird influenza. Should this occur, the availability of a recent vaccine will facilitate an effective response.

L-33-2

VIOLATIONS OF LOCAL LAW


The Nye County BOCC instructed staff to inform the Department of Energy that Nye County has an ordinance in preparation that will establish the previously described restrictions. Nye County anticipates that violations of this ordinance, a local law, would "significantly" impact the environment under the definition of "intensity" at 40 C.F.R. § 1508.27(b)(10).

Should the selected alternative violate local ordinances, the Final Environmental Assessment should analyze this significant impact. A significant impact will preclude a Finding of No Significant Impact (FONSI) and should result in preparation of an Environmental Impact Statement.

L-33-3

Nye County hopes that the Department of Energy will choose to comply with local ordinances and avoid this significant impact. A FONSI will hasten this important testing program.

Respectfully,


James R. Marble, Ph.D.
Director of Natural Resources Office

Letter SuterW 01.wpd

Response to comment L-33-1: NNSA/NSO understands the need to protect the surrounding community and has developed appropriate procedures and test protocol to protect workers, noninvolved workers and the public. Modern literature and original reports show an overwhelming preponderance of evidence to support the conclusion that use of *Bacillus subtilis*, as a simulant, is unlikely to pose any significant risk to humans or animals when used as proposed. It is particularly striking that there are very few reports in recent literature on the subject. Exceptions include allergy, that has been recognized in manufacture and use of enzymes from the species (for use as ingredients in cleaners), and allergy in family members in a single report. Additionally, plume dispersion characteristics indicate that simulant concentrations would be below permissible exposure limits at the outer test perimeter and below detection limits at the nearest non-occupational receptor point.

Response to comment L-33-2: NNSA/NSO has consulted with leading microbiologists and leaders in the area of Weapons of Mass Destruction and have concluded that passive recombination of a live agent with a dead one does not occur.

Response to comment L-33-3: NNSA/NSO, through its current NEPA review process, is committed to addressing all appropriate factors, including any federal, state and local laws imposed for protection of the environment, in determining whether the impacts of the proposed action are "significant". The determination of whether the proposed action will significantly affect the environment will be based on a careful consideration of a number of factors encompassing both context and intensity, as required by NEPA regulations (40 C.F.R. 1508.27). Therefore, any determination of "significance" based solely on a prospective local law yet to be enacted, would be both inappropriate and premature.